HARVARD POLITICAL STUDIES

PUBLISHED UNDER THE DIRECTION OF THE

DEPARTMENT OF GOVERNMENT

IN HARVARD UNIVERSITY

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THE ADMINISTRATION OF THE CIVIL SERVICE IN MASSACHUSETTS

PUBLISHED FROM THE INCOME OF THE
LOUIS ADAMS FROTHINGHAM FUND

LONDON: HUMPHREY MILFORD
OXFORD UNIVERSITY PRESS

THE ADMINISTRATION OF THE CIVIL SERVICE IN MASSACHUSETTS

WITH SPECIAL REFERENCE TO STATE CONTROL OF CITY CIVIL SERVICE

BY

GEORGE C. S. BENSON

CAMBRIDGE, MASS.
HARVARD UNIVERSITY PRESS
1935

PRINTED IN THE UNITED STATES OF AMERICA

PREFACE

Grateful acknowledgment is due to many public officials of the Commonwealth and cities of Massachusetts. Commissioner James M. Hurley, Hon. Richard M. Russell, Mr. Gilbert and Miss Newton of the Commission staff, and City Solicitor Donald C. Macaulay of Springfield are among those who have generously given time and patience in assisting me. Dr. Charles P. Messick of the New Jersey Commission has been equally kind. The criticisms and suggestions of my former colleague, C. J. Friedrich of Harvard, and George A. Graham of Princeton have been useful and stimulating. Other borrowings are acknowledged in footnotes and bibliography. Mr. Joseph Wright and Mr. Nathaniel Safford have given invaluable aid on the hardest part of the work, the actual research. Finally, the assistance of friends of civil service in the state, Mr. A. H. Brooks, Mr. H. A. Atkinson, Miss Catherine Lyford, and above all, Miss Marian C. Nichols, needs grateful praise. Miss Nichols' storehouses of information account for a good third of the book.

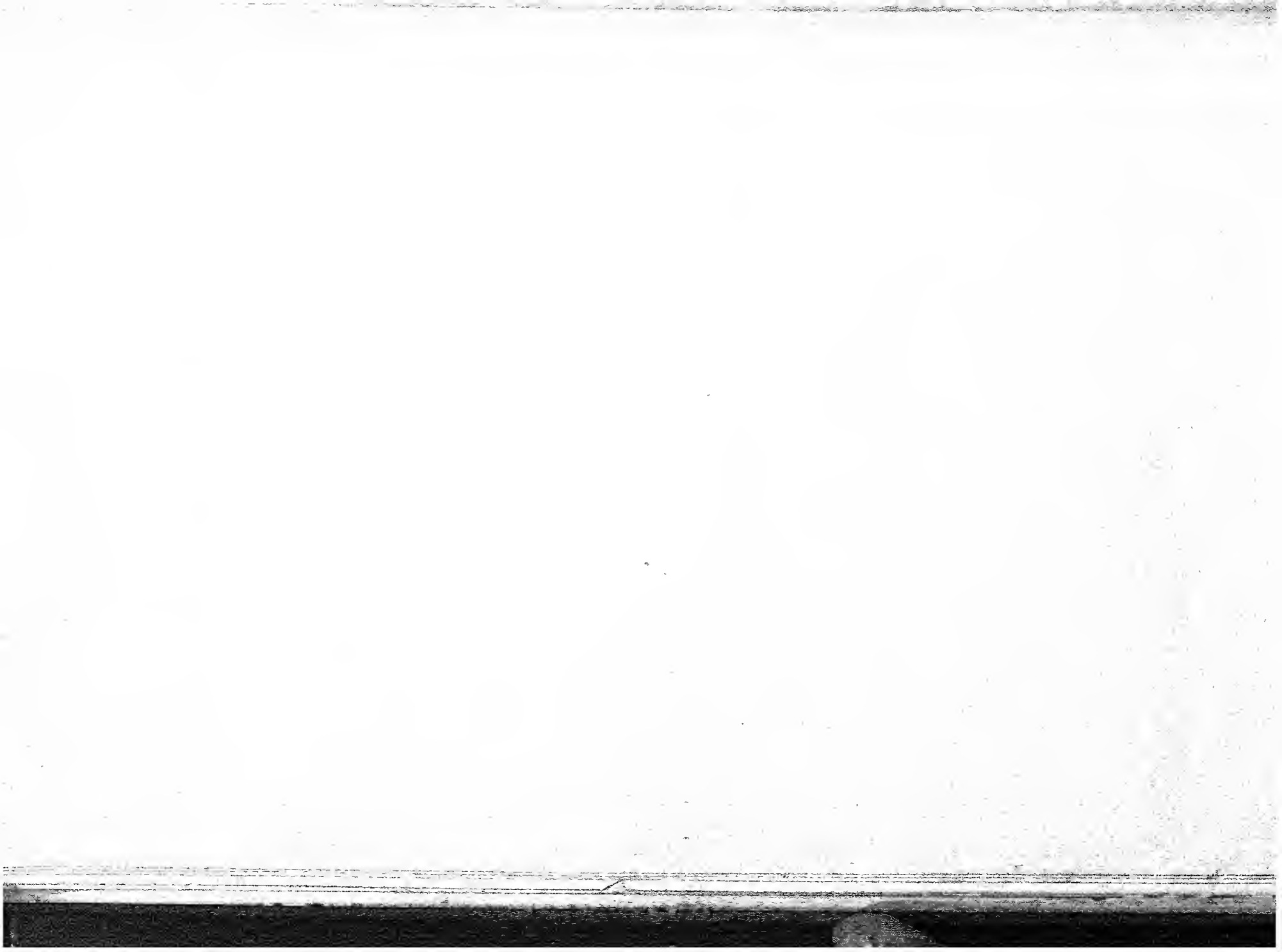
My acknowledgment to Mabel Gibberd Benson, unlike most author-husband acknowledgments, is prompted neither by sentimentality nor by diplomacy. She has been of genuine assistance in the editing of this manuscript.

The Harvard Committee on Research in the Social Sciences has generously aided in financing both research and publication.

A word as to my connections is made necessary by the decided stand I have taken on certain controversial issues. As chairman of the Massachusetts Civic League committee on public service and as a member of the National Civil Service Reform League Board, I might be suspected of being reformer-minded. On the other hand, I have been in close and sympathetic contact with many municipal executives both through efforts to form a cooperative association of cities and towns in Massachusetts and in other connections. My contacts with civil service employees have been less frequent, though I have known a number of them—especially former students at Harvard—rather well.

Citations to "General Laws" are to the Tercentenary Edition of the Massachusetts General Laws. Other statutory citations are to the General Acts published from year to year. Citations to district court decisions are undated and generally unsatisfactory because there is no systematic reporting of them.

Chicago, Illinois
May, 1935



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INTRODUCTION

To guide the Ship of Civil Service in modern times is an increasingly important and increasingly difficult task. Freighted with heavy burdens of expanding governmental activity, the ship has a difficult course between the Scylla of political favoritism and the Charybdis of entrenched inefficiency. How civil service reacts to these new conditions in Massachusetts—the only state where judicial review of removals is to be found, one of the two states in which the state government administers local civil service, and the second state to adopt a civil service law—is well worth study. It is just a half century since Massachusetts began with a Civil Service Commission which George William Curtis called "the earnest of a faithful and intelligent enforcement of the law."[1]

As I write this introduction fifty years later, I feel as if Mr. Curtis' hopes were only half realized. Throughout the years, with minor lapses, Massachusetts civil service commissioners have been "faithful" in enforcing the law and keeping spoilsmen out. They have remained true to the tradition of Carl Schurz, George William Curtis, and Richard Henry Dana, the great reforming spirits of the civil service movement. But in avoiding Scylla the Commissioners and the General Court have sailed perilously close to Charybdis and steered away from "intelligent" administration of the law.

To explain the inadequacies of the public personnel system I propose to follow out two major hypotheses, testing them as critically as possible against the background of Massachusetts experience. Naturally, analysis of these hypotheses may be useful to individuals interested in civil service, and I may occasionally digress to point out desirable alterations, but fundamentally this book is not a plan for reform nor a semi-centennial memorial volume on civil service. It is undoubtedly true that every writer in social science is a bit of a reformer—and I do not claim to be an exception—but I have been chiefly actuated by a desire to verify the hypotheses by testing them against the situation in one state. I hope that other writers may be stimulated to make similar investigations in other localities.

The first of the generalizations to which I refer may be briefly stated as follows: unless a professional spirit is developed there may be as

[1] *Orations and Addresses*, II, p. 271.

much "politics" inside of civil service laws as outside of them. By "politics inside civil service" I do not mean the evasion of the law, but the efforts of civil service groups to secure the enactment of laws on purely selfish grounds. Professor Friedrich refers to the tendency on the part of civil servants to "privatize" public functions[2] or convert the emolument of their offices into private income. Much the same trend can be found in what I have called the "proprietary" theory of office held by many Massachusetts politicians and civil servants. The best civil servants view public office as an opportunity to serve city or Commonwealth, but a large number devote an undue amount of interest to protecting or entrenching themselves. The result is that, at least in some branches of the municipal service, civil servants definitely block public progress for selfish ends and have formed potent political organizations in order to attain those ends. All the evils of favor trading and log rolling have appeared in battles over civil service privileges.

Second, I believe it can be demonstrated that state administration of local civil service has not resulted in the highest type of municipal administration but has caused much administrative friction and political unpopularity for the merit system. State supervision has improved personnel conditions in some of the worst governed cities but at the expense of conditions in the better governed cities. Moreover, state administration implies a highly centralized control of personnel and this runs counter to the best administrative policies. It runs counter to the view of personnel work as a *staff* function which should *serve*, perhaps *persuade*, but dictate as seldom as possible to administrators in line departments.

In connection with the first point it must be confessed that the development of professional spirit among employees has been somewhat hindered by the attitude of the Civil Service Commission. In the past the fundamental purpose of the Commission was conceived to be the elimination of partisan politics from the service—through dictation not persuasion. In recent years there has been a trend in this country to supplement this original aim by a broader interest in general improvement of personnel policies, but unfortunately the Massachusetts Commission has not been sufficiently alive to the needs of the cities and the Commonwealth to participate in this changing attitude. Competitive examinations and definite seniority privileges continue as the major bases for promotion, while service ratings—the one method of articulating a formalized promotion process with administrative needs—are ignored. A complete lack of

[2] Friedrich and Cole, *Responsible Bureaucracy*, p. 26.

interest both in working conditions and in employee educational facilities manifests a disregard of the vital importance of "keeping your men happy," while the failure to experiment with employee committees indicates either ignorance of or indifference to the practical possibilities of officer-staff cooperation facilitated by such committees. The Commission is apparently equally oblivious to the administrative dangers of outside interference which are inherent in the existing system of judicial review of removals.

All of these administrative faults are probably traceable, at least in part, to the original concept of the Civil Service Commission as a sort of policing agency. But it would also seem to be evident that the problems have been aggravated by state administration of Civil Service. The state Commission is so far out of touch with local authorities that it often cannot distinguish between political motivations and earnest efforts at good administration. For example, transfers from one post to another or the qualifications which a mayor may wish to set for a post are often rejected because the Commission cannot see the municipal administrative side of the question. Also, state administration of municipal civil service is a liability rather than an asset, in so far as it makes unpopular any effort to set higher standards. A form of state control which set standards but made no effort *to administer them* might be more helpful.

It is assumed that the reader has an elementary knowledge of Massachusetts public personnel. For those who do not, a few facts may be useful. The Civil Service is divided into two parts. One is the classified or official service which includes all positions requiring some special training or positions of a non-manual nature. Doctors, nurses, clerks, policemen, firemen, auditors and many others fall into this class. The other is the labor class which includes various unskilled, semi-skilled or mechanical positions. The classified service includes only the state government, the thirty-nine cities, and such towns as have accepted the civil service law. Labor provisions include only some cities and very few towns. About 30,000 persons are in the classified service and 13,000 in the labor service.

County personnel is not under the state civil service system though counties are far more directly under the control of the state than are cities. Consequently, no effort is made to analyze the county personnel classification system. It has worked out rather well and none of the strictures against state control of local civil service in the following pages are to be construed as objections to State House domination of

county employees. The anomalous position of the Massachusetts county as a semi-detached part of the government of the Commonwealth places it in a situation very different from that of the autonomous municipality. Reasons for state control of personnel are far stronger in the case of the counties than of the cities.

CHAPTER I

THE WARRING FORCES

"The Power family is not exhausted by the enumeration of the state, the family, the church, business, labor; for there are many more brothers and half-brothers and step brothers to be considered." Charles E. Merriam in "Political Power."

On June 3, 1884, Governor Robinson signed a Massachusetts Civil Service Act[1] which the *Boston Transcript* called "probably the most important act which has passed the legislature for years." The *Transcript* was right since subsequent events have shown this act to be more important for Massachusetts public administration than any other single piece of legislation in the history of the Commonwealth. But other newspapers did not find it so. Whatever discussion might have penetrated to the papers was buried under the talk of Blaine's chances for the Presidency and much discussion of supposed bribery of some legislators. The *Boston Traveler* even rated civil service as of less importance than a school text book act.

Beneath newspaper indifference, however, ran strong undercurrents of public sentiment both for and against civil service reform. Since the story of the conflict through the next half century rarely broke into the footlights of general public opinion, we will not attempt a general history but will trace out the background for present-day civil service problems by following each of the important social and political groups concerned. Parts of this chapter will be devoted to (1) the Civil Service Reform Associations, (2) the Civil Service Commission, (3) the Governors of the Commonwealth, (4) the General Court, and (5) the organizations of Civil Service Employees. In a sense this order is representative of a general sequence of administrative events: the formation of a new idea, the formation of a mechanism to carry out this idea, the adjustment of the mechanism to pre-existing mechanisms, and finally the development of forces generated by the new mechanism.

I. *Civil Service Reform Groups*

Though this study is confined to the laws of Massachusetts, it would be a grave mistake to think that the groups and individuals interested

[1] Acts of 1884. Ch. 320.

in Massachusetts civil service ever limited their activities to the boundaries of the Commonwealth. In fact the major interest of Massachusetts reformers was in the federal service. The *Civil Service Record,* organ of the nation-wide movement, was published by Boston and Cambridge reform associations from 1881 until in 1892 the national organization took it over. At the initial conference in Newport in 1881, when the National Association was formed, the largest delegation was from Boston and the third largest from Cambridge. Mr. Arthur Hobart of Boston was the first secretary. In other words, a lion's share of the leadership in the nation-wide movement for a more efficient government service came from the Bay State.

Those Massachusetts leaders were too thorough-going to ignore local problems. It was very natural that the second state civil service law should be passed in Massachusetts and that it should include cities as well as the Commonwealth.

Who were the apostles of this movement for reform of both national and state governments? The backbone of the movement was a group of distinguished young lawyers and business men. Most of them were Mugwumps in 1884, though a few like Henry Cabot Lodge preferred party regularity to personal opinions. The Massachusetts Reform Club to which they belonged went on record against Blaine yet few of the leaders were Democrats.[2]

Indeed, civil service was essentially a Republican reform. The thorough-going Republican, Lodge, took an active stand for it. Another proponent, Moorefield Storey, had been secretary to Charles Sumner, most acidly Republican of Republicans. Most of the civil service men fought General Ben Butler, dynamic political turncoat, who stood for Governor in 1882 and 1883 as a Democrat.[3] Indeed one can be sure that reaction against the vicious spoils policy of General Butler in State and Boston politics had not a little to do with spurring the civil service advocates of the Republican party to greater efforts.[4] The issue was clear between Republican candidate George D. Robinson and General Butler in the gubernatorial race of 1883. All Butler had to offer in the way of civil service reform was his practice of appointing veterans and their dependents,[5] while Robinson favored general reform.

[2] Howe, M. A. DeW., *Portrait of an Independent; Moorfield Storey,* p. 149.
[3] *Ibid.,* p. 147.
[4] *Civil Service Record,* June, 1883, pp. 3, 11; September, 1883, p. 27; December, 1883, p. 48.
[5] *Ibid.,* October, 1883, p. 36.

Republican or Democrat, there can be little doubt of the distinction of the men who backed civil service reform in the Massachusetts of the '80's. John D. Long, later Governor, wrote long articles in favor of it.[6] C. F. Adams, Jr., Gamaliel Bradford, Charles R. Codman, George F. Hoar, Francis Parkman, John C. Ropes, Edwin L. Sprague, and Roger Wolcott, later Governor, were some of the 397 members of the Boston Civil Service Reform Association. Charles Theodore Russell of Cambridge, later Chairman of the Commission, made many speeches for it.[7] President Charles W. Eliot of Harvard and Henry Wadsworth Longfellow headed a Cambridge petition.[8] A group of Massachusetts citizens signing a petition includes, in addition to those already mentioned,[9] the names of Josiah Quincy, Jr., James B. Thayer, and Darwin E. Ware. At a meeting of the State League in July, 1883, the name of Leverett Saltonstall of Newton was listed as a committee member.[10] The Executive Committee of the Boston Association added Louis D. Brandeis to its members in December, 1883.

A committee of the Civil Service Reform Association consisting of Moorefield Storey, Charles Theodore Russell, Leverett Saltonstall, Richard H. Dana, and Josiah Quincy, Jr.,[11] drafted a report on a proposed state law which was submitted to the legislature. The bill made fairly rapid progress[12] in the General Court and was signed by the Governor on June 3, 1884, just as the National Republican Convention gathered in Chicago. An effort to make civil service rules subject to legislative consent had been warded off, and the only great objection of the reformers to the law as passed was to the low remuneration—five dollars per day—which it established for the civil service commissioners. Unusual features of the Massachusetts bill were the assignment of jurisdiction over both state and municipal offices to one commission and the inclusion of laborers in the protection against spoils politics.

Shortly after passage of the Civil Service Act a new task confronted the reformers. An unholy combination of spoilsmen and veterans preference supporters appeared on the scene and the Reform Associations turned to battle veteran preference. Special interest groups like the or-

[6] *Ibid.*, December, 1881, pp. 1-2.
[7] *Ibid.*, p. 7.
[8] *Ibid.*, p. 12.
[9] *Civil Service Record*, September 1882, p. 25.
[10] *Ibid.*, July 1883, p. 10.
[11] *Ibid.*, February 1884, pp. 65-66.
[12] *Ibid.*, May 1884, p. 88.

ganized veterans battle best in the dark, so the reformers tried to bring the fight out of legislative labyrinths into the open light of public opinion. Publishing the roll call vote was one technique of returning attack.[13] Newspaper editorials pointed to the fact that former opponents of civil service supported veterans preference.[14]

Another rebellion of the politicians centered about an effort to abolish civil service for laborers, on the ostensible ground that it was an undue state interference with city affairs.[15] Local reform associations, however, returned blow for blow and offered bills to extend civil service to the laboring forces of all the cities.

In the twentieth century, the real battles continued to rage about the veterans preference issue. In place of the bill to admit Civil War veterans without examination, there were various bills for Spanish War veterans. Opposition continued to come from the same type of distinguished citizen, well illustrated by the membership list of the Civil Service Reform Association. In 1905, we find Mr. William W. Vaughan as President, Mr. Arthur H. Brooks as secretary, and a list of over 450 names which was still representative of most of the leading families in greater Boston. The executive committee carefully considered all civil service legislation, continuing its never-ending battle against veterans preference, but also opposing removal bills, efforts to lower height and weight requirements, and attempts to exempt various groups of individuals from examinations. Efforts to extend civil service to counties and higher municipal offices were made, though no great enthusiasm was put into them.[16] In 1912 there were still more than 400 members, many of the same officers, and much the same legislative program. During the World War, membership and activities fell off sharply and the Reform Association seemed to have completed its cycle of existence. Nevertheless, the officers and especially the indomitable secretary, Mr. Brooks, continued to follow civil service matters closely. They had a great deal to do with the Coolidge compromise on preference for World War veterans and with the provision for district court review of removals. But their greatest power was gone with the natural wearing out of reform zeal, and with the rise of new and grasping organizations of civil service employees which made many responsible citizens skeptical of the virtue of what once had been an unexceptionable reform.

[13] *Ibid.*, June 1885, pp. 4-5.
[14] *Ibid.*, November 1885, p. 45.
[15] *Ibid.*, January 1888, p. 49.
[16] *Massachusetts Civil Service Reform Association, Report of the Executive Committee*, June 1905.

The women of the early twentieth century also took an active interest. The Women's Auxiliary of the Massachusetts Civil Service Reform Association was formed in 1901. Within a year it had more than 400 members, rose as high as 1118 in 1907[17] and then slowly lost members. Today its greatest effectiveness lies in its well informed secretary, Miss Marian C. Nichols, who is still appearing at civil service hearings after more than thirty years of connection with the Women's Auxiliary. Its position has been much like that of the men's organization except that it has interested itself more in fighting veterans preference. Through cooperation with the State Federation of Women's Clubs as well as through its own long roster of names it has been very successful in securing signatures to petitions protesting against anti-civil service legislation.[18] It has also served effectively in distributing pamphlets, utilizing the school system, and reaching the press in a popular campaign for civil service education.[19]

Though the lists of members have usually included several hundred names and at times topped a thousand, it is obvious that the civil service reform associations are a relatively small part of the electorate; indeed, smaller than the spoilsmen, the veterans, or any other of the special interest groups which they have been opposing. How, then, have they managed so successfully to defeat undesirable legislation? As a back log there has been help from various governmental agencies which appreciate freedom from partisanship—agencies which are discussed more fully below. In addition there is the fact that the relatively small number of association members includes a group of distinguished names whose opposition would damage any legislator. Finally, the influential group in the reform associations has had the connections and the intelligence necessary to secure a good press. Civil service is too technical to be good news but it is an admirable and worthy subject for editorial writing. So the Massachusetts press has willingly coöperated with reform associations in opposing preference legislation.[20]

II. *Civil Service Commissioners*

Important though the reform groups have been in the development of Massachusetts public personnel policies, the Commissioners in charge

[17] Annual Report, 1907, p. 45.

[18] *Ibid.*, 1904, p. 8; 1906, p. 9.

[19] *Ibid.*, 1904, p. 9; 1905, p. 11; 1906, p. 8.

[20] See excerpts from a great many papers in the *Civil Service Record*, July 1887, pp. 6-7. If any papers can be singled out as longtime, consistent supporters of civil service, they are the *Boston Evening Transcript*, the *Springfield Republican*, and the *Boston Herald*.

of the actual administration have naturally been more significant. Hence it is interesting to analyze the type of individuals appointed to the Commission and the general policy of that body.

Twenty-eight men have served on the Civil Service Commission during its half century of existence. The average term of office has been 5.36 years and the average chairmanship 5.33 years. At least sixteen—or slightly over one half—have been college men,[21] and eleven of those, or slightly over a third, have attended Harvard College or Harvard Law School or both. Of course, Harvard, as the largest educational institution of the State, located in the metropolitan area, naturally contributes a considerable number of public servants.

Lest one jump too hastily to the conclusion that the Civil Service Commission has always been an academic monopoly, it is well to point out that more than half the commissioners—including most of the college men—held other political offices prior to appointment to the Commission, and that the longest terms were not usually held by college men. Ten men, or over a third of the total, were former members of the legislature.

Little difference in calibre can be observed between the commissioners appointed by Republican Governors and those appointed by Democratic Governors. The statute provides for a bi-partisan commission and only rarely have difficulties arisen in that connection.[22]

As is the case in all but one of the states with Civil Service Commissions, the Governor appoints the members. Consent of the Council rather than the usual consent of the Senate is required.

A device to prevent any one Governor's dominating the Commission has been used since the beginning.[23] Members are appointed, one each year, for a three year term, so that no Governor can revamp the entire Commission and in no case can a Governor alter the Commission immediately upon attaining power. The change from a one year term to a two year term for the Governor in 1919, of course, spoils the original intention of this device—a very popular one in Massachusetts—of keeping a one term Governor from controlling the Commission. Ac-

[21] Others of whom we were unable to find complete biographies may have been college men too.

[22] See *Boston Evening Transcript*, February 2, 1922, for a discussion of whether or not George M. Harlow was a Democrat. Despite enrollment as a Republican just before appointment to the Commissions, there seems little doubt that most of his political activity had been Democratic.

[23] Acts 1884, Ch. 320, Sec. 1.

TABLE I
CIVIL SERVICE COMMISSIONERS

Names of Commissioners	*Terms*	*Colleges*	*Political Activities*[1]	*Business activities or Profession*[1]
Bugbee, J. M. (Chairman)	1884–1886		Mayor's clerk; Clerk of Committees, Common Council, Boston; Sec'y to Congressman H. L. Pierce; Mem. Boston Police Comm.; Mem. Gen'l Court	Law Book Publishing
Russell, C. T. Jr. (Chairman)	1884–1903	Harvard Boston Univ.	Editor, Contested election cases; Mem. Gen'l Court	Law
Clifford, C. W.	1884–1888	Harvard	Mem. City and State Republican Committees; Delegate to Rep. National Conv., 1880	Law
Bishop, R. R.	1884 (July–Nov.)	Harvard	Mem. Gen'l Court	Law
Osborn, F. A. (Chairman)	1886–1889		Boston Common Council	Finance
Lord, Arthur	1888–1899	Harvard	Mem. General Court	Book Publishing
Wilbur, E. P.	1889–1901		Boston Common Council; School Committee; Mem. Gen'l Court; Del. to Rep. Nat. Conv., 1888	Dry Goods Merchandising and Finance
Porter, C. H. (Chairman)	1899–1905		Mem. Gen'l Court; State Bd. of Health; Mayor of Quincy	Insurance
Marvin, Winthrop	1901–1904	Tufts		Journalism
Warren, B. W.	1903–1905	Williams Boston Univ.	Mem. Gen'l Court	Law
Foxcroft, Frank	1904–1913	Williams		Journalism
Warren, Charles (Chairman)	1905–1911	Harvard	Sec'y to Gov. W. E. Russell	Law
Pelletier, J. C.	1905–1909	Boston Col. Boston Univ.	School Principal; Supt. Marcella Street Home	
Curtiss, E. L. (Chairman)	1909–1919		Mem. Gen'l Court	Law
Boyle, Thomas F. (Chairman)	1911–1914		Trustee, Public Library	Leather Business
Droppers, Garrett	1913–1914	Harvard	Sec'y Comm. on Commerce and Industry, Mass.	College Teaching
Shepard, H. N.	1914–1919	Harvard	Boston Common Council; Mem. Gen'l Court; Asst. Atty-Gen.	Law

[1] Includes activities previous to appointment to Civil Service Commission only. The information presented in this table was found chiefly in Who's Who in America; Who's Who in New England; Who's Who in State Politics; Men of Progress, edited by E. M. Bacon; and Hurd's New England Library of Genealogy and Personal History.

TABLE I (continued)

Names of Commissioners	*Terms*	*Colleges*	*Political Activities*	*Business Activities or Profession*
Hogan, J. J. (Chairman)	1915–1917		City Solicitor, Lowell; Common Council, Lowell; Mem. Exec. Council	Law
Crocker, Courtenay	1917–1919	Harvard	Boston Common Council; Mem. Gen'l Court	Law
Dana, Payson (Chairman)	1919–1927	Harvard	Selectman, Brookline	Law
Bartlett, J. W.	1919–1922	Dartmouth Harvard Law		Law
Huddell, A. M.	1919–1922			Labor Organization
Harlow, G. M.	1922– to date[a]		Sec'y to Gov. Foss; Mem. Harbor and Land Comm.; Mem. Dem. State Committee; Chairman 14th Dist. Congressional Com.; Master, Deer Island Reformatory	
McMahon, P. J.	1922–1932			Labor Organization
Goodwin, E. H. (chairman)	1927–1931	Harvard U. of Leipzig		Sec'y. Nat. Civil Service Reform League; Sec'y U. S. Chamber of Commerce
Tierney, P. E. (Chairman)	1931–1933	B.U. Law	Messenger, Governors Office	Law
Bayrd, F. A.	1932– to date[a]		Mem. Gen'l Court	Newspaper publishing
Hurley, J. M. (Chairman)	1933– to date[a]		Mayor of Marlboro; Mem. Gen'l Ct.; State Fire Marshal	

[a] October, 1934.

tually, public opinion and custom are far more important than the device. No Governor has removed a Commissioner and the only controversy has come over a failure in a few instances to reappoint.

Thus, it can be said that the Civil Service Commission has, thanks to the discretion of appointing governors, been neither too highbrow nor too lowbrow but a judicious mixture of professional and amateur politicians. The resulting political morality has been high, even better than the relatively high standards of Massachusetts politics. Only one Com-

missioner was ever involved in a serious scandal, and that came several years after he left office. Observers who have been in close touch with the administration of civil service over a period of years report only a few instances of what might be considered collusion with appointees. Of course, the close scrutiny of Civil Service Reform Associations and civil service employees has aided in maintaining this high standard of honesty and integrity, but the major credit must remain with the members of the Commission.

There has, however, been one weak spot in this reasonably praiseworthy roster of names. It is to be noticed that the largest number of commissioners from any one occupation has been the 12 lawyers. Only a few prominent business men have been appointed, and that was in the earlier years of the Commission's history. The eminent lawyers who have belonged have practically never had records as distinguished administrators in public or private service. They have lacked the drive and initiative and broad minded concentration on the goal of an efficient service which are characteristic of leaders of great private concerns. Perhaps the plethora of legally minded commissioners helps explain the relative backwardness of Massachusetts civil service at a time when the Commonwealth contains numbers of business firms with outstanding and progressive personnel policies. It is to be hoped that some future governor may realize the fact and enrich the Civil Service Commission by adding a business personnel executive to its membership.

To a considerable extent, this under-emphasis on the administrative aspect of civil service dates back to the original "stop the spoilsmen" attitude. Until very recent years the commissionership was considered a part-time job for a high-type citizen and the associate commissionerships, of course, still theoretically fall in that category. It was not until 1908 that the Chairman received as much as $1500 a year and the other members $1200. An active campaign for higher salaries and better working forces was waged in 1909 but foundered on the rock of natural legislative opposition to civil service. In 1910 the salaries were raised to $2500 and $2000, while in the reorganization of 1919, the present figures of $5000 for the chairman and $2000 for his associates were set. The former figure is not yet comparable to the average department headship, although the functioning of the Commission is, when one considers its importance to the cities and towns, probably the most important single activity of the Commonwealth. Salaries are, on the whole, lower than those of civil service commissioners in other states.

Civil service administration is necessarily an unpleasant job and the commissioners have often labored under the onslaughts of offended political or social groups when the question of reappointment is raised. For example, Commissioner E. H. Goodwin was reappointed in the face of veteran opposition, legislative opposition, and Boston political opposition.[24] The most distinguished man to serve on the Commission, Charles Warren, failed of reappointment because he was opposed by a Boston political machine.[25] The term is short and opposition is easily aroused by instances in which the Commissioner has failed to yield to employee or political pressure.

Naturally the weakness in administration has been reflected in the conduct of the department. The subdivisions of examination and payroll checking are improperly coordinated. The failure to develop general personnel activities which we mentioned in the introduction is due in large part to this failure of the commissioners to take the administrative viewpoint. A dangerous inflexibility—omen of badly routinized administration—has crept in as our chapter on promotions and transfers will indicate.[26] All these trespassings on good administration are to a large extent a result of the type of commissioner who has been appointed. The need of infusion of new blood, of men gifted with the viewpoint of efficient administration, is thus further illustrated.

Details of the Commission's administrative policy will be fully analyzed in succeeding chapters but a few general remarks are appropriate here. Almost every chief Commissioner has, publicly at least, fought against veterans preference, removal of educational requirements, and other attacks on the principles of civil service. Several anti-civil service bills have been forestalled by judicious compromise in departmental rulings. Commissioner Dana agreed to an administrative compromise to defeat legislation removing assistant janitors from civil service. More recently the abolition of educational requirements was defeated for a time at least by another administrative compromise.

In the conflicts between civil service employees and superior officers,

[24] See Boston papers of November 1929, and January 1930.

[25] See *Boston Evening Transcript*, June and July, 1911.

[26] Report of Supervisor of Administration Thomas White, filed with the Legislature on April 29, 1919. The reception given this report by Boston editors indicates that they share the apathy towards administrative viewpoints, and still persist in emphasizing the spoilsman viewpoint. (*Boston Herald*, May 3, 1919). Unfortunately the report was vitiated by too ready acceptance of rumors. See also the report of the Joint Special Committee on Civil Service Laws, Rules and Regulation (House, No. 1001, December 3, 1929).

it is probably fair to say that the Commission has shown a tendency to play in with the employees. For example, its rulings against maximum age limits in promotion are a reflection of an employee point of view.[27] Commendations of fire department heads have been rejected as aids to promotion at the behest of the Massachusetts Firemen's Association.[28] The heavy emphasis on seniority in promotion—three or four times greater than the customary weighting—is another reflection of employee desires.

These facts should not be construed as implying that the Commission is employee-dominated. In part the facts are merely tokens of a desire to be fair to employees who are subject to possible mistreatment by superior officers—a typical American sympathize-with-the-under-dog attitude. In part the rulings in favor of employees are results of an honest effort to restrain executives from undue favoritism or exertion of political pressure. At the same time these rulings are indicative of an apathy towards administrative needs.

III. *Governors of the Commonwealth*

As a general rule, it can be said that the Governors of the Commonwealth have been pillars of strength for civil service. In the preceding section we have seen that, except for a perhaps excusable failure to recognize the need of an administrative point of view, they have not done a bad job on the appointment of commissioners. Rarely have they interfered with the conduct of the Commission's affairs or attempted to apply pressure.[29] By consistent vetoing of veterans preference bills they have ably resisted the pressure of spoilsmen in the Legislature. Governor Robinson in 1886, Governor Wolcott in 1899, acting Governor Draper in 1908, Governor Foss in 1912 and 1913, Governor McCall in 1917, Governor Coolidge in 1919, and Governor Ely in 1932 and 1933, have all vetoed veterans preference bills. It is an amazing record which needs a few words of explanation.

First of all, the post of Governor is one of much distinction and the voters of Massachusetts have usually been fairly discriminating in their choice. Few weaklings have found their way to the Governor's chair, and men of standards were not likely to abandon those standards for

[27] For example the case of appointment of Chief of Police of Lynn. See Lynn and Boston papers for October, 1929.

[28] *Boston Evening Transcript,* May 9, 1923.

[29] Governor Walsh's investigation in his first term may be considered an exception but it was not very objectionable.

the veteran vote. Second, it seems reasonable to presume that the important position of the Governor makes him less open to the political backbiting tactics of veterans' organizations than is the less noticeable legislator. A governor can fight it out in the press, while a senator or representative, lacking the protective weapon of free publicity, may be knifed by a camp of Spanish War veterans. Third, and perhaps most important, Governors have administrations to defend and realize the advantage of possessing a corps of able civil servants to perform those acts for which the Governor is responsible to the public.

It must be admitted that certain exceptions to this gubernatorial stand can be found. We have already noted that Governor Ben Butler was opposed to civil service. A recrudescence of Butlerism in the spoils wing of the Democratic party spotted the records of various Democratic leaders. Governor Ames signed the Tobin veterans preference bill which Governor Robinson had vetoed and made appointments under it which smacked of old style patronage.[30] In 1887, the talented Democratic leader, William E. Russell, able supporter of the civil service standards of Cleveland, was defeated for the gubernatorial nomination by a spoilsman, William B. Lovering.[31] Later on the—at times Republican but then Democratic—Governor Foss failed to uphold standards when he replaced a distinguished and able Commissioner, Charles Warren, by the honest but less able Commissioner Boyle.[32]

Governors have rarely moved to bring exempted posts—such as department and division headships and some lesser posts—under civil service. The administrative and legislative leadership expected of them requires some power of appointment and some patronage to distribute.[33]

IV. *The General Court*

In considering the position of the Massachusetts legislature in civil service matters during these fifty years, it is well to remember the limitations on efficient functioning inherent in the nature of any legislative body. The General Court is admittedly much influenced by the various special interest groups which make up the electorate of the Commonwealth. If those groups decide to retaliate on a representative or a senator who has voted against them, they can, as every one knows, often

[30] *Civil Service Record,* July, 1882, pp. 2-3.
[31] *Ibid.,* August, 1887, pp. 26-27.
[32] See *e.g., Boston Transcript,* July 17, 18, 1911.
[33] This point of view is curiously ignored in C. J. Friedrich's otherwise thorough study of the relations of civil service and separation of powers. See Problems of the American Public Service, pp. 48-54.

wreak their vengeance by defeating him at the next election. This pressure of special groups is a factor which obviously no legislator can completely disregard. In civil service matters, it may be a camp of Spanish War veterans, or an irate mayor, or friends of a would-be police chief who make up this special group. To offset these groups there are but few public spirited representatives of the general interest.

Pressure groups become particularly important when we recall that the individual legislator's specific interest in good administration is far less than that of the responsible administrators. But we must also keep in mind the number of legislators and their methods of work lest we judge them too harshly. The General Court is compelled to think out loud, a difficult process for one man and extraordinarily difficult for 300 men. It must also be remembered that the charge of interference with local autonomy has had a great deal to do with influencing the Massachusetts legislature against the Civil Service Commission.

Despite these difficulties, the General Court has accomplished a great deal for civil service reform. It passed the original bill in 1884, definitely rejecting an amendment which would have greatly weakened the bill. Since then, it has only once or twice considered and, in those cases, rejected efforts to strike at the fundamentals of civil service. Studies of the civil service bills introduced from 1915 to 1934 show that none of the eleven gubernatorial vetoes—almost invariably vetoes in the interest of civil service—were overridden by the General Court. Slowly but surely, it has allowed the Civil Service Commission to build up a more or less competent force.[34] From the general point of view, it would be unjust to say that the Massachusetts legislature was against civil service.

Our studies of legislative action from 1915 to 1934 indicate a high degree of power on the part of the civil service (formerly public service) committee of the legislature. On an average, 16 bills have been reported out by the committee each session and 10 of these have become law. Most of them, however, are special bills putting individual town or city officials into the classified service. Unquestionably, the committee wastes a great deal of time on these special acts which could perfectly well be handled by the time honored Massachusetts method of general optional statutes (statutes which a city or town may accept when it wishes). Approximately 125 of such bills were introduced in the period studied and only 25 or one-fifth failed to pass. In 1917, the committee recommended an optional statute which failed to pass.[35]

[34] See Section 2.
[35] House Bill 1765, 1917.

Against this generally good record, it must be noted that, since 1884, there has been a constant, piecemeal gnawing at civil service in the interests of special groups. No worthwhile investigation of public personnel policies and no truly constructive legislation from the General Court have been forthcoming since the enactment of the original bill. Innumerable veteran preference bills have been killed by responsible legislative leaders (generally in the Senate) but in a good many cases the legislature has passed the onus of opposing the veterans on to gubernatorial vetoes.[36] In another case the pressure of local politicians has resulted in transferring determination of physical requirements from the administrative agency which would properly handle that matter to city councils.[37] Legislative hamstringing of state and city administrators by restricting the right of removal has been pushed through the legislature by organized civil service employees.[38] Another handicap imposed on good administration at the behest of the same special groups has been the limitation on police promotion.[39] Acts protecting particular groups of employees have often been passed by the legislature. On the one occasion when a legislative special committee investigated the whole civil service the report, while well meant, was far from adequate. Much of the suggested legislation was not passed.[40] The record of the General Court has been varied and our second generalization anent political difficulties in state supervision of municipal civil service is richly illustrated by that record.

What can be done about it, if we may digress for a moment from analysis to suggestion? Some states have found constitutional provisions safeguarding the merit system to be of real value, particularly as a means of stopping the never ending fight for veterans preference. Efforts to insert such a provision in the last Massachusetts Constitutional Convention were defeated. It can be maintained that the constant fear of legislative action to abolish the merit system keeps Massachusetts civil service "practical" and on its toes. It may also be maintained that such a provision is out of place in the fundamental law.

Other changes which might lessen legislative pressure on civil service are (1) more effective personnel administration on the part of the

[36] See Ch. III.
[37] See Ch. II.
[38] See Ch. V.
[39] Chapter IV.
[40] House . . . No. 1001, Report of the Joint Special Committee on Civil Service Laws, Rules, and Regulations, December 31, 1929.

Commission, and (2) a decentralization of civil service administration. The first is discussed in all the succeeding chapters and summarized in the conclusion, while the second will be discussed in the chapter on State-Local Relationships.

V. *Organizations of Civil Service Employees*

Massachusetts civil service employees are strongly organized in a number of state-wide associations. As the appended table shows, some of them have existed for a full half century; others are ten, twenty, or thirty years old. Dues are low but membership is large and politically active in several cases, notably the Police and Firemen's Associations, the Public School Janitors, and the Federation of State, City and Town Employees. Several have insurance or benefit funds or are affiliated with organizations which do. Paid secretaries are maintained in more than a half dozen instances.[41] Social activities usually enliven the meetings and a genuine atmosphere of fraternity fills their convention rooms.

In general they have worked through intermittent political pressure rather than strikes or violent action. The dangers of administrative syndicalism, which have worried French governments for so many years[42] and have cropped up in England and the American federal service,[43] have been found in Massachusetts only in one instance—the Boston Police Strike—which was sharply suppressed. The fact that it is a *state* and *local* civil service has often made it unnecessary for employees to place much emphasis on strikes or other formal action. Informal pressure can be equally potent, especially if, as is not infrequently the case, employees and legislators are intimately acquainted or related.

In the famous Boston Police Strike of 1919 it was determined that civil service employees could not afford to affiliate with the American Federation of Labor. The Boston police struck against a department order denying that right and were defeated in the strike. Within a few years most of the local civil service labor organizations withdrew from the Federation, though there is no law denying the right to affiliate. The right to strike seems to have been denied by a similar *de facto* decision. No law or rule expressly denies it, but civil service employees are unwilling to undergo the danger of losing civil service rights.

[41] See appended table.

[42] Sharp, W. R., *The French Civil Service,* Ch. XV.

[43] White, L. D., *Whitley Councils in the British Civil Service,* and Mayers, Lewis, *The Federal Service,* Ch. XVI.

Uniformed local forces are the best organized of public employees. Both the Massachusetts State Firemen's Association and the Massachusetts Police Association have large memberships which keep close watch on members of the General Court. The executive officers regularly appear at legislative hearings on all matters affecting them and usually argue their cases well. Since 1900, the Police Association has been so successfully securing legislation that it is sometimes called the "Third House" of the General Court.[44] Since 1919, Boston policemen have not been allowed to belong to the Association, but its power continues. In addition to legislative work, it has aided local police forces in fighting salary cuts in the courts.

The National Federation of State, City, and Town Employees—which, despite its title, is a purely Massachusetts organization and includes almost no state employees—has not been affiliated with the American Federation of Labor but is distinctly a workingman's organization. It shares in a labor philosophy which also runs through police, fire, and other employee associations. According to this philosophy, most municipal executives are to be distrusted as representative of the ruling class. The taxpayer groups are natural enemies of public employees. Public employees must band together to protect themselves against these two groups. This philosophy is not clearly stated, but interviews with members and public statements lead me to believe that it guides many policies.

The legislative program of these groups, when they are well enough organized to have one, may be summarized as anything to protect the interests of their members. The review of removals which we discuss in a later chapter was secured by organized employees.[45] Any effort to disturb seniority rights excites their immediate disapprobation whether or not it is likely to have a beneficial effect on administration. Naturally they are interested in defeating all attempts to reduce budgets by salary cuts to any considerable degree. They may be relied upon to oppose veterans preference if it is likely to interfere with the rights of a considerable portion of their membership.

Recent legislative history has given a clear example of how political and selfish civil service employees may be. A police coordination bill—not a perfect, but still a progressive, piece of legislation—was defeated

[44] Police have special removal rights, special pension laws, and other favors. Police and firemen have even obtained exemption from general investigations of efficiency (Acts 1916, Ch. 297, sec. 6).

[45] Especially the Massachusetts State Firemen's Association.

by persistent lobbying of the Massachusetts Police Association which had little except possible loss of political power and slight jeopardizing of promotion rights to fear from the bill. The police, being able to render favors to the legislators, used their strong political position to defeat a bill which could have done them little harm and might have done the public much good. This interpretation seems most plausible to me though it is probably true that a vague general desire to protect the working man from a powerful state police had something to do with their stand.[46]

This proprietary attitude towards state and city employment shows signs of becoming a real danger to the interests of the general public. However, it should be noted that efforts of employees to prevent excessive salary cuts are a legitimate activity.

The writer feels that the Civil Service Commission or departmental administrators would be performing a work of inestimable value if either group would attempt, in line with our first hypothesis, to develop a professional spirit in employee organizations. English experience shows that employee organizations can be of great service in giving suggestions to the officials, in settling minor quarrels, in criticizing working conditions and even in reviewing removals and promotions.[47] Massachusetts civil service is as yet hardly free enough from local political situations to hand the fourth task to employee organizations but any of the others could well be developed. Thus it might be possible to begin substituting the professional for the proprietary viewpoint of the organized government employee.

Curiously enough, some of the best developed employee representation schemes in the world are to be found in Massachusetts business firms.[48] All that is needed is a bit of well directed initiative to start a similar movement in government service. Such initiative is not likely to come from changing political officers, who often are not conversant with administrative problems, so the opportunity lies with the Civil Service Commission.[49]

In Chapters II and IV, our theories about the need of introducing some sort of high grade personnel into Massachusetts are further de-

[46] *Boston Transcript, editorial,* August 9, 1934.

[47] White, L. D., *Whitley Councils in the British Civil Service.*

[48] Dennison Manufacturing Company, Filene Company, General Eectric Company.

[49] Burton, E. R., *Employee Representation;* Feis, H., *The Procter and Gamble Company;* LaDame, Mary, *The Filene Store; Selekman,* Ben M., *Employee Representation in Steel Works; Sharing Management with the Workers; Employee Representation in Coal Mines,* are all useful sources of information on such schemes in the business world.

veloped. Here we speak of them only to advance our contention that there might be more of a professional interest in the public service and less concentration on selfish ends if more individuals of broad, well rounded intelligence, more of what we—for lack of a definite term—call "high type" men, were included in the ranks of civil servants. The short sightedness and detrimental effect on the public interest of some of the employee policies of today would be seen by such men. More progressive views and ideas would be presented to the Legislature and

TABLE II
ASSOCIATIONS OF CIVIL SERVANTS[1]

Title of Organization	*Dues per year*	*Organized in*	*Membership*	*Insurance or Benefit Fund*	*Paid Officials*	*Varied Legislative Program*[2]
Mass. State Firemen's Association	$1.00	1884	7,600	No	Yes	No
Mass. Association of Relief Officers	$2.00	1887	150	No	No	Yes
Mass. Police Chiefs Association	$2.00	1887	170	No	Yes	Yes
Fire Chiefs Club of Massachusetts	$3.00[3]	1893	140	Yes[4]	Yes	Yes
Mass. Police Association	$1.00	1900	4,700	Yes[4]	Yes	Yes
Mass. Public School Janitors Association	$ .50	1905	780	Yes	Yes	No
Mass. Milk Inspectors Association	$1.00	1906	85	No	No	Yes
Federation of State, City and Town Employees	$3.00	1907	3,000	No[5]	Yes	No
Boston City Clerks Association	$3.00	1911	350	Yes	Yes	No
Mass. Teachers Federation[6]	$ .75	1911	21,000	No	Yes	Yes
Mass. State Engineers Association	$5.00	1926	300	No	No	Yes

[1] The table is based upon reports from officials of the several associations.

[2] The question of whether the organization has or has not a varied program requires an arbitrary answer. By putting "No" in the column for those organizations which did not go beyond interesting themselves in questions of wages and working conditions, the line was drawn. All those which sponsored or opposed legislation on *other* matters drew a "Yes" in the "Varied Program" column. This does not, however, mean that the organizations marked "Yes" have broad or progressive legislative programs. It simply means that there are in Massachusetts a few organizations which through professional interest of their members or through political ambitions of their officers are exerting influence on the Legislature for matters not directly connected with salary or working conditions. Often the indirect effect on working conditions or salaries is very marked.

[3] $5.00 for Associate Members.

[4] Through an affiliated organization.

[5] Some of the local units have insurance provisions.

[6] Teachers are not subject to civil service laws.

the whole standard of administration would appreciably rise. It is a mistake to think that all legislators follow the ideas of the lower ranks of organized employees. If the department heads who appeared at hearings were of an abler type, more intelligent and satisfactory consideration of administrative policies would undoubtedly result.

VI. *Conclusions*

The most outstanding conclusions reached in this consideration of the background and dramatis personæ of the civil service conflict are as follows:

1. Since the passage of the Civil Service Act in 1884 one of the most powerful factors militating against the maintenance and improvement of Civil Service standards has been the group advocating various veterans preference legislation.

2. Although largely composed of intelligent, trained, and public spirited citizens, the commissions have tended to sacrifice administrative efficiency to the reformers' attitude. While praiseworthy efforts have been made to eliminate political favoritism, to maintain educational requirements and to oppose veterans' preference, little real ability in personnel administration has been displayed.

3. The Governors have been almost without exception of invaluable assistance in vetoing undesirable legislation, in upholding the commission, and in consistently appointing to the commission a high type of citizen.

4. Legislators are of course particularly vulnerable to the pressure of special interest groups, and the General Court has passed some legislation which is administratively undesirable. However, it has on the whole a fairly good record for killing the bills which would prove most dangerous to an efficient civil service, and its chief fault has lain in a failure to enact constructive measures which are needed.

5. Various strong organizations of civil service employees exist. Working through political pressure, they have unfortunately been able to secure the enactment of various policies which, while protecting and entrenching the employees, are often deleterious to the commonwealth as a whole. All too often the "proprietary theory of office" is exalted above a theory of "public service."

CHAPTER II

THE RIGHT MAN FOR THE JOB

The most substantial appraisal of public personnel which is available in the vague mists of rumor, snap judgment, and uninformed opinion which becloud politics, is the estimate of professional people—doctors, lawyers, social workers—interested in various phases of governmental activity. If estimates can be trusted, few branches of Massachusetts municipal civil service measure up to the standard which one would expect of one of the more enlightened states of the country. It is generally agreed that some of the state departments are excellent, but in relatively few instances is outstanding work done by city civil service employees. The writer has heard prominent leaders in social work denounce the inefficient social investigators furnished by civil service and on the same day listened to a number of police officials seriously discussing the low standards of police personnel in several cities of the Commonwealth.

Accordingly, instead of listing the details of recruitment, we propose to view recruitment as a problem which existing machinery does not solve and to see if the reasons for this failure fit into the hypotheses advanced in the introduction to this book. To do this adequately, we will first make what statistical inquiries seem possible into the question of remuneration. Does Massachusetts pay her public employees enough to secure first rate personnel? After attempting an answer to that difficult question, we will take up briefly the type of competitive examination, the age and other qualifications of a physical sort, and the educational requirements, examining each in the light of our original hypotheses. Upon the facts presented, some author's suggestions will be based.

I. *Remuneration*

Judging from the few fields in which specific information is available, Massachusetts city employees are not paid less, and are probably paid more, than the average for similar employees in comparable cities. This does not mean that salaries are too high or should not be raised. Differences in living costs, and other factors complicate such a general ques-

tion. The accompanying tables give an idea of only one aspect of the general situation.[1]

Analysis clearly indicates that the more politically potent groups of employees—especially police and firemen—have used their power in the matter of salaries. Primarily this work has been accomplished through pressure on city councils and selectmen, though the General Court has not been ignored. An effort of the Massachusetts Police Association to establish a minimum state wide salary of $6.00 a day for police was

TABLE III

AVERAGE SALARIES OF MUNICIPAL DEPARTMENT HEADS (1930)[1]

Position	*Pop. over 500,000*		*Pop. 100–200,000*		*Pop. 50–100,000*		*Pop. 30–50,000*	
	Mass.[2]	*U. S.*	*Mass.*	*U. S.*	*Mass.*	*U. S.*	*Mass.*	*U. S.*
City Clerk	$ 7000	$ 6560	$4475	$3613	$3428	$3307	$2954	$2760
Chief Accounting Officer	8580	6743	4425	4415	3571	3490	2915	2868
City Treasurer	9580	8189	4313	3788	3536	3219	3208	2408
City Engineer.	—	8220	4650	4752	3712	4481	3363	3396
Supt. of Schools	12000	12980	7163	7820	6400	7598	5492	5955
Librarian	7500	6950	4159	4131	3393	3093	2579	2348

[1] We are grateful to Mr. Clarence Ridley of the City Managers' Association for the figures which form the basis of this chart. The national figures appear in the Municipal Year Book for 1934.

[2] Boston is the only city in Massachusetts with a population of more than 500,000. There are no cities in the state with populations between 200,000 and 500,000.

vetoed by Governor Fuller as "the most severe blow at local or home rule government" within his memory.

In the years after the World War, wages for police and firemen were raised throughout the Commonwealth until the present figure was reached. The salaries of other public offices followed suit more slowly but nevertheless surely. It is probably fair to say that the general level of remuneration in the Commonwealth is not so low as to constitute a complete explanation for the lack of excellence in the municipal personnel.

[1] The figures as presented at first blush seem to justify a statement that Massachusetts employees are paid more than the average in like sized cities. But the inevitable gaps and errors attendant upon questionnaire information makes us hesitate to be too positive. Salary cuts and "voluntary contributions" have been largely omitted by taking 1930 figures in Table III, but a few cuts are present in the figures of Tables IV and V.

II. *Entrance Qualifications*

A steady rise in the maximum age of entrance has been one of the most significant signs of how a politically unpopular state civil service for cities has really lowered standards throughout the Commonwealth. In conjunction with the great emphasis on seniority in promotion discussed in Chapter IV and the inadequate retirement laws analyzed in

TABLE IV

COMPARISON OF 1932 BASIC MASSACHUSETTS FIRE DEPARTMENT SALARIES WITH THOSE OF OTHER CITIES AND TOWNS[1]

Position	*Group I*[2]		*Group III*		*Group IV*		*Group V*	
	Mass.	*U. S.*	*Mass.*	*U. S.*	*Mass.*	*U. S.*	*Mass.*	*U. S.*
Chief	$6500	$6954	$4094	$4070	$3607	$3328	$3088	$2758
Deputy Chief	4500	4773	3201	3038	2900	2463	2671	2152
District Chief	—	3649	2901	2677	2611	2210	2129[3]	1950
Captains	2700	2781	2544	2308	2522	2062	2404	1935
Lieutenants	2500	2546	2335	2179	2356	1953	2275	1848
Firemen								
Max. Salary	2100	2260	2069	1973	2139	1827	2097	1729
3rd Yr. Salary	1800	2136	2069	1919	2101	1796	2079	1710
2nd Yr. Salary	1800	2008	1990	1827	2025	1747	1998	1676
1st Yr. Salary	1600	1873	1824	1701	1925	1668	1888	1593
Master Mechanic	—	3378	2672	2547	2672	2206	2381	1944
Engineers	—	2586	2373	2127	—	1882	2296[3]	1857
Chauffeurs	—	2268	1965	2002	2291[3]	1776	—	1686
Electricians	3015	2801	2037[3]	2048	2369	2060	2600[3]	1848
Fire Alarm Operators	2700	2578	2096	1891	2142	1734	2200[3]	1697
Secretary to Chief	3600	2914	2188	2079	2207	1906	2200[3]	1659

[1] All figures compiled from salary chart in "International Firefighter" for April, 1934. Basic data prepared by Census Bureau.
[2] Boston only. There are no Group II cities in Massachusetts.
[3] Only one city reported.

Chapter V, it explains a very serious problem of senility in our public personnel. It is of course particularly to be deplored in connection with fire and police services. Unless one is willing to abandon his ideas of the primary social importance of government work and accept Representative Otis' view of the civil service as a haven for the middle aged failure of private life, the tendency towards higher age maximums must be viewed with alarm.

Boston, it will be observed in Table VI on page 24, has a higher minimum age of entrance than all but 8 of the 26 large cities listed and a

higher maximum age than half of them. Comparison with European cities would be even more damaging, and it should be remembered that Boston has set her standards by them, not by the rest of America. Massachusetts cities with police pension systems are a little better off, since they may recruit men from 21 to 35 but age limits below thirty-five for fire or police entrance are forbidden by statute.[2] The general

TABLE V

POLICE SALARIES BY U. S. CENSUS GROUPS 1932*

	Group I[1]		*Group III*		*Group IV*		*Group V*	
	Mass.	*U.S.*	*Mass.*	*U.S.*	*Mass.*	*U.S.*	*Mass.*	*U.S.*
Chiefs	$7000	$7747	$4050	$4129	$3364	$3467	$2957	$2923
Deputy Chiefs	4500	5306	3184	3189	2810	2831	2153	2256
Inspectors	2700	3973	2450	2724	2518	2677	2355	2282
Captains	4000	3495	2799	2680	2770	2538	2549	2317
Lieutenants	2700	2915	2540	2416	2517	2354	2352	2284
Sergeants	2500	2602	2351	2176	2375	2295	2230	2037
Detectives	1600–4500	2457	2550[2]	2085	2313	2064	2154	1979
Patrolmen (Max.)	2100	2300	2167	1996	2159	1906	2104	1853
Patrolmen (Min.)	1600	1878	1889	1749	1878	1728	1901	1705
Finger Print Expert	—	2747	2072	2186	2372[2]	1992	—	1951
Clerks	750–3600	1665	1169	1582	1740	1667	1438	1601
Matrons	400–1800	1462	1158	1336	1432	1208	952	1016
Policewomen	1600–2100	1881	1964	1767	1922	1710	1116[2]	1611

[1] Boston only. There are no Group II cities in Massachusetts.
[2] One city only.
* Figures compiled from "Salaries and Conditions of Employment of Police Forces in 245 Cities in the United States and Canada," by David Wolff. Municipal Administration Service, 1932; Statistical series: Publication no. 7. This table evidently includes some depression cuts.

police maximum age of entrance in the Commonwealth is 40, so the situation is even less happy in the general run of cities.[3]

In other fields of activity, there is equally little emphasis on recruitment of active young workers for city and state. In one more or less typical case, the Commission in a call for minimum wage investigators specified the age as between 21 and 48 years, and for inspectors, an age between 25 and 45 years.[4]

Obviously, questions of physical vitality, pension rights, and general ability to become intellectually and psychologically adjusted to new

[2] *General Laws,* Ch. 31, Sec. 4.
[3] *Civil Service Law and Rules,* Rule 8.
[4] *Lowell Leader,* February 26, 1926.

work make it more desirable to employ younger men. Why, then, has the age situation grown worse? Originally, the increasing of Boston police entrance ages was explained on the ground that older men could resist the temptations of police work better than younger men.[5] Since then, however, the motives have been less idealistic. Civil War veterans have attained exemption from any age limits.[6] The American Legion has

TABLE VI

MINIMUM AND MAXIMUM AGE REQUIREMENTS FOR ENTRANCE TO POLICE FORCES IN TWENTY-SIX AMERICAN CITIES[1]

City	*Minimum Age*	*Maximum Age*
Baltimore, Md.	25	35
Boston, Mass.	25	35
Buffalo, N.Y.	21	31
Chicago, Ill.	21	28
Cincinnati, Ohio	21	30
Cleveland, Ohio	25	33
Columbus, Ohio	25	35
Denver, Colorado	25	35
Detroit, Mich.	23	30
Indianapolis, Ind.	21	34
Louisville, Ky.	25	35
Milwaukee, Wis.	24	32
Minneapolis, Minn.	25	35
New Orleans, La.	21	40
New York, N.Y.	21	29
Newark, N.J.	25	31
Philadelphia, Pa.	25	37
Pittsburgh, Pa.	21	35
Providence, R.I.	23	30
Rochester, N.Y.	21	30
Portland, Ore.	21	35
St. Louis, Mo.	22	32
St. Paul, Minn.	21	35
San Francisco, Cal.	21	35
Seattle, Wash.	23	34
Washington, D.C.	22	32

[1] Data secured in answer to questionnaire issued by the writer in 1934.

aligned itself with the raising of age limits as the increasing age of veterans became a barrier to appointments. In addition to these selfish group interests, there has been a sentimental interest in taking care of the older man which reflects credit on the kindness of the politicians as well as discredit on their lack of concern over the efficiency of the public service. At different times, the Commissioner of Civil Service, the Governor, and police executives have tried to lower the age limits but

[5] *Seventh Annual Report of the Civil Service Commissioners*, pp. 6-7.
[6] *General Laws*, Ch. 31, Sec. 22.

the force of employee and political opposition has always been too strong. Again an illustration of the first hypothesis.

Height and weight qualifications set by the commission have been similarly weakened in the interests of "local autonomy" and of sentimental sympathy for "the man just under the line who would make just as good a fireman." The statute now leaves the setting of height and weights standards for firemen to city council or selectmen[7]—a curious application of home rule and an excellent illustration of our second generalization. As a result of the unpopularity of state civil service, this administrative question has been left to municipal legislative determination; whereas under a municipal civil service it would probably be under the jurisdiction of the local commissioner.

The old theory of civil service as primarily protection against politicians has at times resulted in the Commission's acting against the best standards of public administration. For example, a mayor requested a maximum age limit of 55 for a chief of police examination because the captains and lieutenants on the force seemed too old. The captains and lieutenants stirred up opposition, claiming favoritism on the part of the mayor. They succeeded in persuading the Commissioner of Civil Service to deny the age limit. Clearly the Commission was allowing lower standards of administrative efficiency in order to stave off a possibility of favoritism and because of fear of employee pressure.[8] A more recent instance in a state institution—in which an educational requirement was greatly lowered and the age entrance raised a year to keep the appointing officer from securing a desired person—furnishes another example of exaggerated protection against favoritism based on a mistaken theory of the Commission's function.

An exaggerated egalitarianism leads many politicians to object to any limitation on right of entrance to the civil service. One example is the opposition to laws or regulations keeping persons with court records out of civil service. The theory that a juvenile delinquency should not deprive one of a chance to work for the government has run counter to the theory that all government officials should be above reproach. Commissioner Goodwin calculated in 1929 that 18.6% of applicants for civil service positions had court records[9] (a figure made less significant by inclusion of a number of automobile cases[10]). In running through

[7] *General Laws*, Ch. 31, Sec. 4.

[8] Lynn Chief of Police Examination, 1929.

[9] *Boston Evening Transcript*, February 1, 1929.

[10] Recent legislative actions have made it possible to exclude automobile cases from this provision (Acts of 1929, Ch. 306; Acts of 1934, Ch. 94.)

newspaper files over a period of years, the writer was surprised by the considerable number of cases in which policemen faced various charges. It is fortunate that the checkup on court records of civil service applicants continues to be made.

III. *Educational Requirements*

In recent years there has been much agitation over another effort of a few legislators to lower standards, this time by abolishing educational requirements. The bill was defeated in 1934 by an administration compromise which provided greater allowance for practical experience in lieu of education.

In some ways this is another interesting sample of the difference in theories between those who view the civil service as a privilege of citizenship, equally accessible to everyone, and those who wish to raise standards and create an effective public service. The former individuals argue that a competent man who could not afford school or college training should not on that account be deprived of an opportunity to work for the city or Commonwealth. Those who wish to maintain standards argue that, while there may be injustice in a very few cases, the requirement of educational background greatly decreases costs of administering examinations and sets a certain supplementary standard to support the examinations and eliminate crammers. If the administrative compromise worked out in 1934 will adequately care for the few cases of possible injustice—and there seems little reason why it should not—it seems possible that educational requirements will continue.

Legislative advocates of the former theory argue that it permits a valuable political device to be used without detriment to the service. If the constituent fails in the examination he has no reason to blame the legislator who has given him a chance but who obviously could not grade the papers for him. If the constituent succeeds he is grateful to the legislator for a supposed "pull" and is presumably qualified to hold the position. The most important practical objection to this argument is the cost and administrative labor of giving examinations to all comers. It must also be noted that examinations alone are not always an adequate gauge of ability.

Educational requirements—which vary from grammar school to college in accordance with the technical requirements of the post—have been an important part of the administrative system. During the years 1932 and 1933, 114 out of the 326 examinations held had educational requirements and 12,376 of the 54,758 persons examined had satisfied

educational requirements. Since the examinations for technical posts are usually those which have an educational requirement and are also the most costly, a good many thousand dollars a year are saved the Commonwealth by those requirements. When there are so many graduates of accredited universities and institutions within the state, to give engineering or professional examinations at $1.00 or $2.00 per applicant to all comers constitutes an expensive and pointless phase of recruitment.

IV. *Examinations*

A work on the political and administrative aspects of personnel machinery cannot go too deeply into the questions of psychology and pedagogy raised by competitive examinations. So we must content ourselves with a few general remarks about the type of examination and hope that some other investigator will take up this subject in greater detail.

A few words about the examining mechanism of the Civil Service Commission will serve as introduction. Some conscientious and fairly able workers are on the staff, but there are no trained psychologists, no men versed in the technique of examination and no research in types of examination comparable to that conducted by many personnel agencies of the country. Probably this situation is a result of two forces. One is the lack of adequate appropriations resulting from the political unpopularity faced by many civil service commissions. The other is the lack of a genuine professional interest in personnel administration on the part of the members of the commission.

Most of the specialized examinations are composed and corrected by outside experts at the tidy figure of $1.00 per paper. For example, police chiefs and—because of the strongly legal side of Massachusetts police examinations—former judges have been employed to set the police examinations. This utilization of outside brains has generally assured technical competence but has failed to allow an evaluation of the whole process of examination by a trained staff within the Commission. At present, the move, to some extent on grounds of cost, is away from the outside examiner system.

Both because of the lack of students of general examining technique and the reliance on outside specialists, there is a strong tendency toward specific examinations. In fact, the Commission has rather prided itself on giving examinations which determine technical competence rather than those which analyze general ability.[11] Thus the police examination is heavily weighted on the side of the police law. General intelligence

[11] *Third Annual Report*, p. 10.

tests used by leading civil service commissions elsewhere—sometimes disguised by police terminology—have never been used here. Heavy weightings—forty per cent on police entrance and at times fifty per cent on firemen entrance—given to competitive physical tests show how much brawn has been rated over general intelligence.

The result in Massachusetts has been flourishing cram schools since the specialized questions could readily be predicted in advance. With the exception of a bit of overly enthusiastic advertising, there is nothing essentially vicious in cram schools. Neither is there a great deal of good to be obtained from them. The police law and procedure taught in the cramming process could be more effectively learned in police school after the recruit had entered the service. What is wanted initially is a good level of general intelligence—something which the process of cramming and examination does not necessarily furnish. If the candidate has a job which he cannot leave or if he cannot afford a cramming course, he may be defeated by a less able rival with more leisure or more money.

Some of this viewpoint was recognized by the Commission after the War, and "so-called intelligence tests" were initiated for clerical and stenographic examinations in 1923.[12] But the experiment did not progress very far and present-day clerical tests ask for nothing more than the possession of a certain smattering of book learning. A general information test is used and true-false questions are sometimes employed but there is nothing more advanced.

Oral examinations have long been used on a few services.[13] Usually given by one of the examining force and a commissioner, the amount of time devoted to examination has been small and the technique of questioning not very well developed. Usually the grade on oral examinations has been unimportant, but they have served the purpose of weeding out candidates with marked physical defects.

It is only fair to say that fear of press ridicule of intelligence tests has been one of the factors keeping the Commission from developing advanced examination systems. Examinations, particularly the oral ones, have often been subject to savage criticism from unthinking politicians and equally unthinking newspaper men. A move to eliminate oral examinations by statute in 1926 was defeated only by bringing certain administrative pressure into play. Charges of "favoritism" in orals are still very prevalent among some employees. For example, an experiment in the giving of oral examinations by former superior officers was very un-

[12] *Annual report*, 1923, p. 1.
[13] *Ibid.*, 1909, p. 16.

popular.[14] (Here again the generalization anent politics within civil service is well illustrated.)

Any effort to move out of the field of "practical questions" has also been subject to unfavorable publicity. Questions of general information or general intelligence are ridiculed as unconnected with the subject in a way which reflects no credit on the interest of Massachusetts newspapers in general intelligence.

The Commission has full power to order non-competitive examinations in cases where it thinks them desirable. Originally much used, this power has been steadily atrophying under charges of favoritism, until today almost all examinations are competitive.[15]

V. *Certification*

After age and physical requirements are met and the examination passed—"passing" usually means securing a grade of 65% or more—the applicant's name is placed on an eligible list from which certified names are sent to the appointing officers. With certain exceptions for veterans discussed in the next chapter, the names are certified in order of grades on the examination. Discretion is allowed to the appointing officer in that more names are certified than there are posts to be filled and he is allowed to choose from the names certified. In common with the practice of other civil service commissions three names are certified for one vacancy. Then it is 4 names for 2 vacancies, five for 3, 6 for 4, and 7 for 5. For each multiple of five vacancies there is the same multiple of seven names.[16] No person who fails to receive an appointment shall be certified more than 3 times. Considerable discretion is allowed the Commissioner in modifying these rules.

VI. *Process of Appointment*

A brief review of the law and rules in connection with appointment may be of value to the reader. Broad discretionary powers are lodged in the Commission and the Commissioner, though they are rarely exercised. We have noted a steadily declining use of the non-competitive examination which the Commission is empowered to give.[17] At times when the need for flexibility in appointment is felt, the Commission authorizes temporary, or provisional, or provisional permanent appointments. Temporary

[14] *Boston Herald*, November 26, 1914.
[15] Letter from Commissioner Hurley, February 5, 1934.
[16] Rule 16. Civil Service Law and Rules.
[17] General Laws, Ch. 31, Sec. 3b.

appointments are limited to a period of three months, but the Commissioner may renew them from time to time. Their application is, of course, to work which exists only for a short time. Provisional appointments may be authorized to fill either temporary or permanent vacancies. They are limited to a period of three months, which, however, may be extended by the Commissioner. Their purpose is to fill the position while examinations are held. Experience gained as a provisional appointee cannot be weighted as experience on an examination, but a provisional permanent employee who has filled a position for six months or more may, upon request of the appointing officer, be certified for a permanent position, provided he passes the next examination held for the position. The rules do not clearly distinguish between temporary and provisional temporary appointments.

Provisional appointments are frequently allowed by the Commissioner. They provide a needed flexibility though they may be used as a means of getting political friends into office. Since a check upon various municipal posts is difficult for the Commission staff, this situation is partly inevitable though it rouses bitter feelings—in illustration of the second hypothesis. In the long run the Commission usually succeeds in discovering such cases. The watchful eye of other aspirants for the post is one great enforcement agency. Even so, there is some opposition, and occasional legislation to terminate the broad power of allowing permanent provisional appointments has been introduced.[18]

VII. *Need for a System of Recruitment*

Apparently the gravest difficulty with attempts to raise the standard of Massachusetts public personnel recruitment lies in the political unpopularity, heightened by the fact of state administration, of adequate general intelligence tests and of adequate age and physical standards. Since attempts to pass remedial legislation would be of little use, it seems to the writer that the solution lies in other directions.

First, educational requirements are a useful device which, always with proper allowance for practical experience, could well be extended. They would be most effective if timed to take the pick of graduating classes from high school, college, and special schools.[19] While the public salaries are not altogether inadequate in Massachusetts, they are not

[18] *E.g.*, H. No. 845, 1933.

[19] Cf. Recommendations of the Commission of Inquiry on Public Service Personnel. Better Government Personnel, p. 5.

glittering prizes to keep bright young graduates waiting through months of idleness until the examinations happen to be announced. Private firms realize the importance of this time factor and regularly visit the schools in May and June to secure the best possible future employees. When the time for civil service examinations rolls around there are often only second raters left for the Commonwealth. Massachusetts lags behind the personnel agencies of the federal government and the better business firms in this respect.

The second of our suggestions for a system of personnel recruitment grows out of an objection to the first. It is often said that insufficient positions are available to justify yearly examinations. Our answering suggestion[20] is that the most worthwhile possibility of state administration of local civil service be exploited and state-wide lists be established as a result of examinations held in May or June. At present there is great waste of energy in giving many local examinations and state examinations for similar posts which a single state-wide examination could cover at considerably less cost to the government and less bother for the applicants. For example, in 1932 we find examinations for social workers or investigators given for the state service on March 8, the Springfield Welfare Department on May 7, the Salem Welfare Department on August 10, Somerville Soldier's Relief on September 2, and Melrose Public Welfare on September 9. The next year it was much the same. Social workers were chosen for the State Prison Colony on January 7, the Lawrence Welfare Department on January 24, Salem Welfare Department on April 14, Fall River Welfare Department on April 29, Brookline Welfare Department on June 3, Quincy Welfare Department on June 20, Boston Welfare Department on June 30, Chelsea and Worcester Welfare Departments on July 14, and Springfield Welfare Department on December 16. The qualifications were almost identical, the types of examination similar, yet a separate examination was held for each post.

As soon as one proposes systematic state-wide examinations he is labelled an enemy of local autonomy. To quiet the outraged proponents of home rule, it would probably be necessary to certify two lists for each community: one list made up of home town candidates and the other of candidates from anywhere in the state. The fact that occasional state-wide examinations are held for municipal posts is evidence that at least in a few cases the municipality would draw on the state-wide list.

[20] Also developed in Chapter VI.

State-wide examinations are already held for police, fire, and stenographic posts, although the ratings are by municipalities.

Let us give an example of the working of such a state-wide system. Suppose five towns and the state need social workers. The would-be social worker would have to take only one examination in order to have his or her name placed on a list of eligibles for state positions, home-town positions, and possible positions in other towns. If the examination were properly timed it would attract a number of people, and the commission would have to hold only one examination for an entire group of posts. Most important of all, towns which found the local list unsatisfactory could turn to the state-wide list.

Some day an enterprising Civil Service Commission will realize these possibilities, perform a real service to the Commonwealth, and save itself a great deal of trouble. Since the localities would be deprived of no power, it is difficult to find very legitimate objection on the ground of home rule. This method has already been adopted in the case of eligible lists which can be utilized both by a metropolitan district and by the cities within the district. Similarly in the case of junior clerks in the state service, a single eligible list may be utilized by more than one department.[21]

Less than a quarter of the people taking examinations have to satisfy educational requirements so it is evident that the two preceding suggestions for taking young people from school or college are not all inclusive. In the case of some at least of the posts for which there are no educational requirements, the administrative device of joint lists of eligibles for state and local posts would still be useful. For all posts the criticisms of specific examinations made in section 2 imply a need of more general examinations. Technical learning can be acquired from schools within the service after entrance. To repeat the previously used example, a state police school could teach everything which a cram school does, and teach it better. The choice of men could then be based on native ability rather than on hastily absorbed factual knowledge.

VIII. *Probation*

The Commission follows the customary practice of establishing a six months probation period for both labor and official services—before the expiration of which no appointment can be considered permanent.[22]

[21] Annual Report, Civil Service Commission, 1929, p. 3. The Commission of Inquiry on Public Service Personnel has made similar general recommendations. See Nos. 15 and 16 on p. 7 of Better Government Personnel.

[22] Rule 18, Civil Service Commission, Rules and Regulations.

Presumably the appointing officer can reject an unfit appointee at the end of that period though the rule is not clear on the procedure. The provision has been practically inoperative—in which Massachusetts does not differ markedly from a number of personnel jurisdictions.

It has been suggested in county personnel circles that a system requiring positive approval of probationers be installed. Under this system a man would be hired at a step below the normal salary. If at the end of six months the superior officer certifies that he is an effective and promising worker, he is given a half step raise. On similar certification six months later he could move into the normal minimum salary bracket.

The claim is that by requiring positive action of approval from the superior officer, the probation device might be made more effective. The writer is inclined to agree that it would—if accompanied by more basic changes in the whole personnel system for Massachusetts cities.

IX. *Summary and Suggestions*

To summarize this chapter, it seems to the writer that political unpopularity of state civil service, coupled with a non-administrative point of view in the Commission, has resulted in a generally poor personnel recruitment job. Legislation, or the threat of legislation resulting in weak administration, has adversely affected both entrance examinations and entrance qualifications. Restrictions of these kinds are rarely to be found in civil service laws and rules of other jurisdictions. While other factors may explain the presence of these restrictions in Massachusetts, it is interesting to notice that most of them deal with municipal civil service. The implication probably supports—though it cannot prove—our second hypothesis that state control of city civil service generates an unpopularity for civil service which results in legislative opposition to progressive measures.

Our specific suggestions for remedying the situation without altering the general set-up are first, the development of an examining personnel with a real interest in the general technique of examination, and second, the establishment of state-wide examinations with real efforts to "feed" able personnel from schools and colleges into public service. This much could be done by effective administration, but almost equally important is the removal of the various legislative restrictions on civil service standards of age, height, and weight.

CHAPTER III

UNLIMITED HANDICAP

I. *History of Veteran Preference in Massachusetts*

Ever since the adoption of civil service in Massachusetts, some form of veteran preference has been present. While we cannot give as much space to the details of preference legislation for Civil War returned soldiers as to the legislation which is still a vital issue, nevertheless, the history of veteran preference casts illuminating light on present day problems.

Two points are apparent in this brief historical sketch. First, veteran preference has always linked itself all too naturally with opposition to civil service. Second, the theme of "More Plums, More Hunger"[1] is well illustrated in the ever expanding appetite of veteran organizations for civil service tidbits.

As a bid for the soldier vote the original Civil Service Act[2] provided for preference in appointments to office and in promotion in office (other qualifications being equal) to men who have served in the Army or Navy in war time and been honorably discharged. This general expression meant little, so in 1887 opponents of civil service joined with seekers for the soldier vote to secure an act making appointment of veterans without examination permissible.[3] Although the 1884 provision was interpreted liberally by the Civil Service Commission, its general phraseology occasioned many uncertainties and in 1888 the Commissioners requested more exact legislation.[4] The clarity came a year later with a provision that veterans should be appointed in preference to persons who did not have a higher standing on the eligible list.[5] Special protection against removal was added to the list of favors for veterans in 1894.[6]

A year later the wooing ex-soldier thought he had received the ultimate favor from his willing mistress, Civil Service, when a provision of

[1] Duffield, Marcus, *King Legion*, p. 85.
[2] Acts of 1884, Chap. 320.
[3] Acts of 1887, Chap. 437.
[4] *Fifth Annual Report*, 1888, p. 12.
[5] Acts of 1889, Chap. 473.
[6] Acts of 1894, Chap. 519.

absolute preference for veterans without examination was put in the statute.[7] Unfortunately the chaperoning courts unexpectedly declared this particular provision unconstitutional on the ground that the act gave veterans rights distinct from the rest of the community.[8] Little abashed by this temporary setback, the veterans returned to the attack with an act in 1896[9] which gave absolute preference to Civil War veterans and those receiving medals of honor from the President. Four types of preference were granted:

1. Absolute preference for all veterans passing examinations was specified.
2. The appointment of veterans by appointing officers, without examination, was authorized.
3. The removal of veterans in city or town civil service was permitted only after a hearing before mayor or selectmen.
4. A preference in appointment to labor service was provided.

This was more than three decades after the close of the Civil War and marked the climax of appointment favors for the soldiers of that war. Most of them were well on in their fifties and could not hope for new jobs, though it is amazing to see that not until the turn of the century did the percentage of veterans entering the service fall below ten.[10] Most of the men were appointed without examination on the discretion of appointing officers. Additional protection against removal in labor service and against abolition of positions, and a retirement provision concluded the G. A. R's. tale of favors granted.[11]

The sailing was not so smooth for Spanish War veterans but the results were similar. The first bill placing Spanish War veterans in a position similar to that of their Civil War brothers in arms was presented in 1899. It was vetoed by Governor Wolcott but promptly reintroduced the next year and the next and the next. The term "hardy perennial," applied to regularly appearing bills in the State House, was certainly applicable to this bill. It was killed by adverse committee reports or tie votes or vetoes year after year. In 1907 the absolute preference proposal was changed to a percentage bonus proposal. The Civil Service Commission

[7] Acts of 1895, Chap. 501.

[8] *Brown* vs. *Russell*. 166 Mass. 14. 1896.

[9] Acts of 1896, Chap. 517.

[10] Statistics compiled by the author from the Annual Reports.

[11] Acts of 1901, Chap. 399; 1905, Chap. 150; 1907, Chap. 458.

It should be noted that none of this legislation applied to Spanish War veterans. See Op. Atty. Gen. H. M. Knowlton, May 28, 1900. A preference in promotion was administratively interpreted to mean right of the veteran to apply for promotional examination and a preference in appointment if he should pass. Civil Service Rule XL, Sec. 7, 1901 Revision.

compromised with this demand in 1911 by granting credit for military experience. The petitioners withdrew their bill but reintroduced a preference demand in 1912. It passed and compelled Governor Foss to add his veto to those of Governors Wolcott and Draper. Various adverse reports were accepted until 1917 when a new veto by Governor McCall was necessary.

The year 1919 brought 200,000 World War veterans and their dependents to add a heavy numerical pressure which Spanish War veterans lacked. Governor Coolidge, either bowing to the inevitable or being a less stalwart executive than his predecessors,[12] proposed a bill[13] which became law.[14] The bill defined "veteran" to include all persons who had served in the armed forces of the United States in time of war or insurrection and been honorably discharged, with a proviso of citizenship or settlement in Massachusetts. An absolute preference in standing on the eligible list was granted to veterans who passed the entrance examination for the official service and absolute preference was also allowed in certification for labor service. Special protection against removal which Civil War veterans had long enjoyed was added to the normal civilian protection.

Before judging Governor Coolidge too harshly[15] it is well to remember that his bill was adopted in place of a far more sweeping measure, the so-called McKnight bill. The latter would have coupled the efforts of veterans and spoilsmen by adopting Civil War veteran preferences; thus legalizing appointment of veterans without examination and without regard to age, height, and weight limitations. Another bill proposed that no civilian could be certified until all veterans who passed had been certified and appointed. In comparison the Coolidge law was relatively mild.

Vehement opposition from press and civic organizations, and statements from leading veterans helped ward off the McKnight bill. Stress was laid on the American Legion 1919 Veteran Preference Resolution which urged "a preference over candidates otherwise equally qualified," a principle clearly violated by the proposed law. Encouraged by their

[12] A statement issued by R. H. Dana and A. H. Brooks announced that Governor Coolidge said he wished to get a bill doing the least damage to Massachusetts civil service.

[13] House Bill No. 1404. 1919.

[14] Acts of 1919, Chap. 150.

[15] In the next section we will discuss the workings of the absolute preferences he proposed.

ability to defeat the bill, and subsequent editions of it, friends of civil service reform introduced numbers of exemptions from veteran preference laws. In 1926 they started an initiative petition to reduce the absolute preference of the Coolidge law to the 5 point and 10 point preferences accorded ordinary and disabled veterans respectively in the federal service. State department heads, prominent citizens, labor unions, police and fire chiefs' associations lent their names to the movement, while the Massachusetts Civic League and Civil Service Reform Associations did the bulk of the work. Probably because of the wording of the amendment which made it necessary for those who opposed veteran preference to vote yes, the initiative measure was defeated by a small margin of votes.[16]

Present dispute centers over a revival of the section of the McKnight bill which would admit Spanish War veterans to the civil service without examination. Proponents of the bill argue that there are only a few old men to be cared for, but its passage would create a valuable precedent for securing the same legislation for World War veterans. To date, the gubernatorial veto has disposed of this legislation.

II. *Legal Aspects of Veteran Preference in Massachusetts*

Veteran preference in the Commonwealth extends to a broad group of individuals, according to the definition just cited. Enrollment in the Naval Reserve Force is not sufficient,[17] but enrollment in the Medical Enlisted Reserve Corps is sufficient.[18] Since no distinction between these cases is given, it may be that the latter decision was a result of carelessness in the Attorney-General's office.

A man discharged for disability after eight days at Camp Devens is not a veteran.[19] Nor is a man who received a discharge from draft entitled to veteran preference.[20] Drafted men are clearly included[21] as are women who served in wartime.[22] There is apparently no time limit on service. Three weeks or even less time spent in service has often given a man a preference equal to the man who spent a year and a half in the war.

[16] *Boston Transcript,* November 3, 1926.
[17] Op. Atty. Gen., J. R. Benton, November 13, 1925.
[18] Op. Atty. Gen., Joseph Warner, November 14, 1932.
[19] *Dunn* vs. *Commissioner of Civil Service,* 281 Mass. 276.
[20] Op. Atty. Gen., June 11, 1923.
[21] *Ibid.,* October 16, 1917.
[22] *Ibid.,* March 9, 1920.

The present system of preference operates with more certainty than the Civil War system. Veteran preference definitely does not apply in promotions under the 1919 Act but, on the other hand, promotion cannot be used as a method of avoiding choice of a veteran where a competitive examination has already been held.[23]

Since veteran preference in the labor service applies to *certification*, not to *employment*, a veteran may be suspended according to the usual rule of seniority[24] and is entitled to no preference in appointment.[25] In other words (and this applies to both classified and labor services), if a civilian and two veterans are certified to a post, there is no legal objection to naming the civilian.

A disabled veteran is entitled to preference in employment as well as in certification. He also receives preference in being retained when it is necessary to suspend someone in the classified service.[26] This distinction is a reasonable interpretation of the statute[27] which provides that disabled veterans shall be appointed and *employed* in preference to all other persons.

A petition for writ of mandamus based on the ground that veteran preference violated the Declaration of Rights of the Massachusetts Constitution and the Fourteenth Amendment of the Federal Constitution was summarily dismissed.[28]

III. *Administrative Results of Veteran Preference in Massachusetts*

With the legal situation relatively clear, it is interesting to analyze the administrative results of the Massachusetts system of absolute veteran preferences. The reader is reminded that if the veteran secures a passing grade, his name goes to the head of the eligible list, while the disabled veteran who passes the examination precedes even the veteran. This is an absolute preference as to standing on the list but not as to appointment in the classified division of the service.

Obviously the passing grade set by the Civil Service Commission becomes very significant. It was 65% till Commissioner Goodwin made it 70% in 1929, but the ease or stiffness of grading may determine how

[23] *Ibid.*, June 7, 1920.
[24] *Ibid.*, July 27, 1926.
[25] *Corliss* vs. *Civil Service Commission*, 242 Mass. 61.
[26] Op. Atty. Gen. March 29, 1930. Also August 22, 1933.
[27] *General Laws*, Chap. 31, Sec. 23.
[28] *Mayor of Lynn* vs. *Civil Service Commission*, 269 Mass. 410.

many applicants are above the passing mark.[29] Veterans accuse the Commission of setting the standard too high in an effort to exclude the veterans; civilians protest that it is too low. This double claim indicates that the Commission is following a sane median course but the method of judgment is all too haphazard. Yet that seems inevitable under the preference system.

Figures of percentage of veterans appointed to the service are very interesting. In the period 1919-1933, the average percentage of veteran appointments in the classified service of the Commonwealth has been 14.1; in Boston 42.6; and in other cities and towns 27.8. Advocates of local self government may draw the moral that a grateful Commonwealth does not mind giving veteran preferences if she can make her cities and towns bear the burden. It seems more probable, that the technical nature of posts in the state service explains the figures.

Questions are often asked as to the positions affected by veteran preference and whether or not it is of continued importance. Our answer can be found in Table VII on page 40. During the period 1925-1932, the percentage of veterans appointed to sub-executive positions in Massachusetts civil service has ranged between 25 and 35 and in recent years shows no appreciable falling off. The percentage of veterans entering into the custodial posts has fluctuated about 50% and in recent years has risen. Inspectional services have usually taken in more than 50% veterans and show no trend toward reduction. Police and fire departments had very high veteran ratios up to 1929, when the age limits began to take effect and the percentage fell off. The number of veterans in social work has shown a surprisingly steady rise to 1932; while in clerical, instructional, technical and professional groups, the percentage has remained more or less constant. In clerical and instructional posts (this does not include public school teachers) the percentage has been slight; in technical and professional groups it is important but not predominant. Unfortunately, no figures are available as to the total number of veterans in the various services. The general answer to the second question posed above is that the percentage of veteran preferences is dropping off but doing so slowly.

The figures as to classes of posts can be interpreted in various ways. It is evident that the bulk of the problem of veteran preference in fire and police is over and the value of military experience for those positions is an important consideration. Whatever our objections on theoretical

[29] *Annual Report*, 1928, p. 3.

grounds, few of us are going to protest against the increasing movement of veterans into custodial posts. Educational requirements seem to have kept the veteran percentages from bulking large in technical, professional, instructional, and clerical posts. The real sore points are two classes of great importance to the public, in both of which it is difficult to rely on educational requirements. The first is the inspectional posts group in which the percentage of veteran appointments has averaged more than

TABLE VII[1]

PERCENTAGE OF APPOINTMENTS RECEIVED BY VETERANS[2]

Classification	*1925*	*1926*	*1927*	*1928*	*1929*	*1930*	*1931*	*1932*
Executive	28.0%	36.9%	26.7%	23.0%	27.5%	31.5%	37.6%	29.4%
Clerical	8.1	5.4	3.4	7.3	5.6	4.9	6.8	10.2
Social Workers	15.5	14.6	24.3	22.0	37.5	16.7	17.2	25.2
Inspectional	66.0	51.2	58.0	6.3	49.0	43.2	55.8	54.1
Instructional	3.2	2.4	2.5	2.3	2.5	5.5	5.3	3.1
Police	52.9	56.2	40.6	48.3	27.5	24.8	21.7	18.6
Fire	72.4	71.2	46.1	65.0	66.8	38.0	39.3	24.7
Custodial	52.3	44.6	57.3	50.6	46.1	52.3	49.2	60.6
Technical-Prof.	22.5	27.6	23.2	25.0	30.6	17.9	13.7	24.1

[1] A more complete table on this subject, including the total number of appointments made in each year and the number of veterans appointed as well as the percentage of veteran appointments, appears as Appendix B on page 82.

[2] Data compiled by the writer from annual reports of the Massachusetts Civil Service Commission.

50. Few Americans realize the importance to the public health and safety of adequate inspectional work, and few Americans pay any attention to the appointments made to such posts. Destructive explosions, building disasters, or epidemics of disease may result from incompetent inspection, but veteran preference permits men who have passed with a grade of 70% to secure appointment in place of men with grades in the 90's. The other group which has been thrown into great importance in depression years is that of "visitors," or "social agents," or "investigators." There veteran preference was of increasing importance at least to 1932. Requirement of a college education for a few of these positions helps to stave off the recruitment of incompetents. Usually, however, mayor after mayor, selectmen after selectmen, social worker after social worker, have grievous stories to tell of the type of agent or inspector furnished by the existing civil service laws. In neither inspection nor welfare work can military experience be said to increase a person's qualifications.

The final feature of the Massachusetts absolute preference to receive

our attention is the fact that, if three or more veterans pass the examination, no civilian, be he of ever so great ability, can receive the post. In spite of this provision Massachusetts does not appoint an unusually high percentage of veterans when compared with the relative system of veteran preference largely employed in the federal service.[30] (See Table VIII) The relatively low percentage in the state service is raised by the higher percentage in cities and towns to slightly above the federal ratio. The greatest difference lies in the fact that the very able civilian may be excluded entirely in Massachusetts whereas if he stands 5%

TABLE VIII[1]

Type of Civil Service	*Percentage of Veterans Appointed 1919–1932*
Federal Service	24.9
Massachusetts State Service	14.1
Boston Service	42.6
Other Massachusetts Cities	27.8
State and Municipal Services in Massachusetts {Official Service	28.6
State and Municipal Services in Massachusetts {Labor Service	35.6

[1] Data compiled by the writer from reports of the Massachusetts Civil Service Commission and the United States Civil Service Commission.

higher than the third veteran he may be appointed in the Federal service. Massachusetts is deliberately excluding ability by her system of absolute preferences. Complaints of numerous department heads and appointing officers bear out this charge. Time after time, the ablest man, the only obvious man, cannot be appointed because three veterans are arbitrarily placed higher on the list.

IV. *The Theory of Veteran Preference*

In discussing the pros and cons of veteran preference in the civil service, it is well for us to bear in mind that, while we are primarily

[30] The Federal system of preference is: (1) a 5% bonus on examination for any veteran; (2) a 10% bonus for disabled veterans, widows of veterans, and wives of veterans physically disqualified for government service; which if the applicant earns a rating of 60 becomes an absolute preference; (3) age limits, apportionment requirements, height and weight requirements are eliminated for veterans; (4) a retention preference for veterans; (5) time spent in war is counted as experience. (41 Stat. L 37, Act of July 11, 1919; Executive Order, March 3, 1922. May also be found in U. S. Civil Service Act and Rules, Amended to September 1, 1924, pp. 16-17, issued by the U. S. Civil Service Commission.) This long list looks impressive but actually means less than the Massachusetts system of absolute preferences.

concerned with the impact on the public administration, it is merely part of a general wave of privileges and favors to war veterans. State and federal bonuses are too well known to need more than mention here. Free quarters in government buildings for veteran organizations, exemption of veterans from certain taxes, special appropriations to send the Legion bands tooting through the land, grants of income from prize fights to Legionnaires; all are phases of this same movement.[31] Elaborate arrangements for hospitalization and medical care of veterans for "non-service connected" and "presumptive service connected" disabilities have aroused much ire—and much support.

In considering these special privileges it must be remembered that they represent the successes of the veteran organizations, especially the American Legion. In the post Civil War days the politicians used to vie for the soldier vote; in this era of modern high pressure salesmanship, the soldiers' organizations force a far more elaborate predatory program on the politicians.

But the general effect of regularly recurring demands for favors is the same. The Legion and the Veterans of Foreign Wars are big mechanisms with salaried officials who wish to keep their salaries. To stay on the payroll it is necessary to do something. Strenuous campaigns for membership are useful in filling the coffers but there must also be achievement. This desire to do something, to demonstrate one's worth to the organization of which he is a member, is doubtless one explanation of the incessant importunity of modern veteran organizations. Individual legionnaires and posts are promptly muzzled if they object to particular measures. Veteran preference, for example, could be demonstrated to be disadvantageous to veterans themselves. It means less efficient government for 95% of the veterans, so that 5% of them may live on the public payroll. But the effective lobbyist can easily convince his veteran constituents that he is doing something for them.

If one begins to analyze the theory of civil service preferences on the mixed grounds of (1) the desire to help the veteran and (2) the desire to maintain standards of public service which most thoughtful citizens profess, one can work out a reasonable compromise. But the necessity of getting something done every year to show the members of the veteran organizations that the legislature or lobbyist is veteran-minded changes the initial compromise. It would be relatively easy to justify the procedure followed in England immediately after the War when large num-

[31] Duffield, Marcus, *King Legion,* Chap. VIII.

bers of returned soldiers were taken into Government positions. The fact that the call to the colors had upset the lives of those men, causing discouragement and at least temporary maladjustment, would create a limited claim on the Government for favors. Even the two-thirds who never saw active service or the not inconsiderable number who spent a few weeks in training camps had a real claim that the continuity of their lives had been broken. Some men undoubtedly were worse hit than others and preference in civil service for a small group might be justified on that account. Even the extreme features of the McKnight bill might have seemed temporarily advisable on that ground in 1919.[32]

Such a theory of preference, however, if properly fitted into the desire for an efficient public service, does not cover various items. Preference in promotion is clearly an unnecessary sacrifice of the public interest after the original aim of preference legislation, i.e., taking care of the soldier whose life has been disturbed, is accomplished. Special privileges against removal are another unjustifiable sacrifice of public interest. Finally, veteran preference in appointment after a certain period of readjustment—ten years at the most—is going too far. While an obligation on the country to care for those who were permanently injured by wartime service remains and while a general reward for men participating in the War might be justified, the phenomenon of granting an increasing number of favors to able bodied men who have had over a decade to adjust themselves to conditions of civilian life can no longer be explained on the basis outlined above. The veteran who applies for public service fifteen years after the War is often doing so, not because of his war service but because of his failure to get what he wanted in civilian life. Continued preference legislation must be viewed either as an extraordinary sentimentality or as a bid for votes and salaries on the part of legislators and lobbyists. Drawn out over a period of years, veteran preference becomes a particularly insidious variety of the species of legislation fostered by special interest groups, which, heedless of the general welfare, cast the public interest aside and grab for themselves. Considering how broadly the term veteran is defined, one can almost call this the demand of one generation of Americans for preference over other generations.

Another weakness in the present laws is the duplication of governmental privileges. How, for example, can a government fairly give a man total disability compensation on the ground that he is unable to

[32] In the case of police and firemen it is quite probably true that military experience was useful in qualifying for a post.

care for himself, and at the same time give him a job requiring active service to the Commonwealth in preference to able bodied men? The original Prussian veteran preference law eliminated pensions for men taken into the service, but different departments in American Federal and State governments are blithely compelled to heap privileges one upon the other.

This factor of desire for new favors every year, cutting dead across the appropriate ethical consideration, bodes ill for the future. If the World War veteran organizations repeat the history of Civil War and Spanish War veterans, we will find requests for increased privileges, admissions without examination, preference in promotion, elimination of age and physical requirements, and special privileges in removal, dragging out for twenty years or more.

The whole story of veteran preference has some bearing on our original hypotheses. Veteran preference laws are excusable for a few years, but eventually unpardonable. They are attacks on the fundamental principle that the public personnel system must be operated with a view to effective conduct of the functions of government. The lack of emphasis on that principle by the Civil Service Commission has given support of the proprietary theory of public service of which veteran preference is only one aspect. The fact that Massachusetts laws give more preference to veterans than the laws of any other state (except Illinois) may be due in part to the political unpopularity of state controlled municipal civil service which in this case, as in others we have cited, makes it difficult to pass and enforce the legislation which would build up a real "merit system."

An interesting illustration of the lack of professional spirit in the present civil service is the failure of organized employees, for all their political power, to take any general stand against the efforts of veteran groups. They will oppose preference laws which might threaten their own rights to office or promotion but they do not actively work for the maintenance—and improvement—of standards for the service as a whole.

CHAPTER IV

PROBLEMS OF PROMOTION

"Massachusetts was one of the three pioneers in civil service legislation. But she has been content to remain almost stationary while great advances have been made in other states." Inaugural Address of Governor McCall.

I. *Methods Employed in Massachusetts*

Massachusetts' statutes give the Civil Service Commission an opportunity to develop almost any systems of promotion which it sees fit. A certain amount of limitation on police promotion methods does exist but, otherwise, the law gives the Commission and Commissioner very great opportunity to develop new methods and to vary the usual process when circumstances make it desirable. How much this discretion has been employed is a question which we will try to answer in this chapter.

At present there is a tendency to base promotion in Massachusetts cities and towns largely on competitive examination, with a heavy weighting on seniority. Competitive examination from rank to rank is almost forced upon the Commission by the statute[1] in the case of police promotion. It is the writer's opinion that the phrase "except as otherwise provided in this chapter" would permit other methods of promotion but no Commission has ever cared to carry such a case into the courts. In fact, the administrative policy of the Commission throughout its history has been toward competitive examinations.

One of the reasons for this tendency is the desire of the Commission to avoid charges of favoritism which a non-competitive examination would necessarily entail; another has been the honest opinion of many of the Commissioners that a mayor or a department head who wishes to promote one particular individual is *ipso facto* playing politics (as many of them are); and a third has been employee pressure for closed competitive examinations. In connection with this last point the reader is reminded of the instances cited in chapter I which show that employee opposition may be serious when a commissioner's time for reappointment comes around.

The bearing on the original hypotheses is easily seen. First, organized

[1] *General Laws*, Chap. 31, Sec. 20.

employee groups, acting on the proprietary theory, have secured legislation and an administrative policy which keep higher posts in the public service for themselves just as completely and by just as painless a method of distribution as possible. No group of higher officials with professional viewpoints has been able to keep these private no-trespass signs off the domain of public service. Second, the natural suspicion of state commissions against local "politicians" has driven them to a policy which keeps honest and able municipal officials from using special means to promote unusually able individuals.

Coupled with the ineffective recruitment system, the inroads on civil service by veteran groups, and the inadequate retirement laws to be discussed later, this inbreeding method of filling higher posts has led to a situation in which many municipalities find it impossible to get effective men for higher civil service posts. This may sound like an exaggerated statement but it is based on a number of personal experiences with mayors and municipal department heads who were anxious to do a good job but who were forced to try to evade the civil service regulations which should have been helping them. In a great many police departments where the chiefs are under civil service it is impossible to appoint a man below 50 or 55 to the position of chief. Many higher officers do not resign until they are in their seventies (in some cases, eighties). How can a program of police reorganization or a determined war against crime be carried on by elderly executives? In former years the Commission recognized this situation and allowed maximum age limits for promotional examinations. During the last decade strong opposition from employee groups and legislative representatives of those groups has forced the commission at times to recede from even that minor concession to effective government. For example, choice of a Lynn chief of police was first limited to men under 55 years of age but the opposition from the Massachusetts Police Association and its legislative friends changed the Commission's decision.[2]

In addition to the ingrown system of promotion the heavy emphasis on seniority in promotional examinations increases the number of aged officials. Text books recommend a maximum weight of 1/10th for seniority[3] and few jurisdictions give more than that, but in Massachusetts it is rated as 1/4, 1/3, and even larger fractions of an examination for promotion. The mere fact that one has been on the job for years thus becomes an important asset for promotion.

[2] *Lynn Telegram*, October 18, 1929.
[3] Upson, L. D.; Practice of Municipal Administration.

Not only does this ineffective system of promotion put old men in most responsible posts; it also lowers the morale of the working force. Why should a civil servant work to please his department head when that department head has no method of rewarding him? The bare minimum of effort necessary to avoid court removal is all he need exert. If he wishes a better job he can study for competitive examinations or wait around to gain seniority credit. More efficient work is of no use.

In a more involved way this iron-clad system of promotion works against civil service itself. When department heads find civil service hampering their activities, they will naturally advise against any efforts to extend civil service to higher posts.

After reviewing these difficulties attendant upon the present system of promotion, one's first impulse is to advocate a return to the system of choice by superior officers. But such a radical revision would be throwing Massachusetts almost as much out of line with modern personnel practice in one direction as it now is in the other. Employees demand and deserve some protection against arbitrary treatment or undue favoritism on the part of their superiors. Men are weak and administrators are men. In a case where we are dealing with numbers of municipal executives, the danger of political considerations is even greater than in large scale organizations. But do we need the degree of employee protection to which the politicized civil servants and the suspicious viewpoint of the Commission have brought us?

The present trend in other jurisdictions is towards consultation of personnel officers with administrative officers on promotion cases. It is interesting to notice that promotion in the service of the Commonwealth is done by the superior officer, with the consent of the director of personnel. Judging from various reports, the system has worked rather well. Why should Massachusetts municipalities be denied that degree of freedom?

II. *Service Ratings*

Another frequent compromise between free administrative choice and complete civil service commission selection of higher officers has been the very American method of service ratings. According to a letter from one of our outstanding public personnel officers,[4] they are used in a con-

[4] Charles P. Messick, Chief Examiner and Secretary, New Jersey State Civil Service Commission.

siderable number of jurisdictions but in not more than a half dozen are they well enough developed to warrant any great emphasis on them as a part of formal tests for police promotion. Constant experimentation, however, is being carried on and various personnel officers, especially J. B. Probst of St. Paul, have attained a high degree of success.

The service rating lists a number of qualities considered important for efficient service and future leadership and a number of other qualities considered to be liabilities for public service. Some of the headings are, for example:

Usually pleasant and cheerful
Always courteous
Cranky disposition
Often seems dissatisfied
Often grumbling or complaining
Accepts responsibility
Does not accept responsibility
Makes quick and accurate decisions
Too lenient in maintaining discipline

The subordinate is graded periodically by three higher officers, the lowest in rank being first to make the grading. All that is required is a simple check beside the quality which fits the individual. A slide rule and a table have been devised which weight the various qualities checked and make it possible to calculate a total mark for the individual.[5] Different weights can be used in different branches of the service.

Many of the faults of older rating systems have been eliminated by careful working over of the items in the Probst system, but it is still open to a few objections. Unsympathetic and unenergetic administrators tend to turn in stereotyped ratings and the man in active charge of the Probst system frequently has to argue at length in order to obtain careful consideration and avoid contradictory markings. Even with the best consideration a certain type of colorless individual is often rated too high. The whole system may be criticized as unnecessarily complicated, though the automatic functioning of the tables and slide rules kills much of the force of that objection.

How can the service rating be used? Some jurisdictions employ it to arrange salary gradations within a given class, others use it to judge questions of lay off, and others to obtain a picture of how their whole staff is functioning. Its use in promotion is of course most important from our point of view. As a method of obtaining the long range, con-

[5] J. B. Probst, *Service Ratings*, p. 82.

sidered judgment of several administrative officers over the efficiency and potentiality of a candidate for promotion, it seems to avoid many of the difficulties of arbitrary or political action which the state commission fears from municipal authorities. The fact that ratings are made periodically, by several superior officers, eliminates many of such dangers. If there are contradictions in ratings as a result of favoritism and politics, the Commission can refuse to accept the rating. When promotion time comes around there is a relatively substantial basis of judgment.

Massachusetts has made a few efforts to install some sort of rating systems. Charles Warren, the most distinguished intellect to serve on the Commission, was interested in them. Governor McCall was much concerned with public personnel improvement, and in his administration the Commission made efforts to measure efficiency by a simple system of marks for ability and reliability. Ability ratings were based on quality of work; reliability on attendance and conduct. Springfield, then and probably still one of the best governed cities in the Commonwealth, was the first to adopt the new system for its police department. The experiment failed because the police officers returned stereotyped reports.[6] Governor McCall's bill recommending the empowering of the Civil Service Commission to scrutinize work of public employees resulted in the unused statutory power of investigation of efficiency by the Commission.[7] But there were no appropriations, and, for the reasons given above, no fundamental drive on the part of the Commission itself to render this useful service to state and local administration, and the idea of service ratings lapsed. The Boston police department is experimenting with them at present but they have no weight in promotion.

At times even policemen themselves have remonstrated against the system of basing promotion of policemen and firemen on examinations alone. But these have been voices in the wilderness, in one instance unfortunately ridiculed by the Civil Service Commission.[8] On other occasions, police chiefs have proposed other bases of promotion. But—and this is interesting proof that abler high officials are needed before Massachusetts civil service can emerge from its employee-dominated state of inactivity—none of these officials have made an able presentation of their ideas. They have been unable to see beyond citations, arrests, and

[6] Harvey N. Shepard, "How shall we find a measure for efficiency?" in *Boston Herald,* December 22, 1918.

[7] *General Laws,* Chap. 31, Sec. 33.

[8] See correspondence between Capt. Patrick J. Hurley of the Cambridge force and Commissioner E. H. Goodwin, in the *Boston Herald,* June 1, 1928.

other grounds of distinction which, while perfectly commendable, are too sporadic to be a good basis of promotion. Naturally the employees, ever suspicious of favoritism, criticize such a basis of promotion. In most of the hearings the writer has attended the employees have had much the best of the discussion.

To summarize: a desire on the part of the commission to avoid the dangers of favoritism plus the desire of employees to retain a proprietary hold on the upper bracket positions have resulted in

(1) Too little regard for the promotion recommendations of responsible municipal officials and department heads

(2) Too great an emphasis on seniority privileges in promotion

(3) And—largely growing out of the two preceding conditions—a strong antagonism to the civil service among many capable and forward looking officials.

The only moderately successful compromise between administrative choice in promotions and complete reliance on examinations has been in the form of service ratings. Thus far, these have not proved successful in Massachusetts.

The most practical solution to the problem is for the Civil Service Commission to step in, exercise the power which it undoubtedly possesses to rate training and experience, and develop an effective system of service ratings. It would take a few years of trial and experimentation and a good deal of work on the part of someone in the Commission but it could be done.

At the moment, however, the choice of higher executives in the average Massachusetts city is not much better than the system once used in Rockport—where two constables were elected and the one with most votes became chief of police.

III. *More Flexible Administration*

If Massachusetts municipal personnel administration falls in line with general trends it is likely to result sooner or later in a certain decentralization. Representatives of the commission might then be located in the larger cities with jurisdictions including the surrounding areas. If such an organization comes about, consultation between local personnel representatives and municipal authorities on cases of promotion would be the easy, natural way of solving the problem. The role of the Civil Service Commission in promotion could then become of positive consultative value in contrast to the present questionable interference value.

CHAPTER V

REMOVAL AND RETIREMENT

*"It takes something more than a charge of giant power to effect a removal. Thanks to civil service reform we have developed and sheltered the insolent, ignorant, inefficient public employee."**

I. *Restrictions on Removal in General.*

In discussing the question of restrictions on the removal of civil service employees by superior officers, we touch upon a matter which is of great importance not only to citizens of the Commonwealth but to students of government the world over. Massachusetts, with her judicial review of removals, has gone further in protecting public employees from the club of discharge than any other government in the world. So our study of the Massachusetts law, especially of the district court review of removal, becomes an effort to answer Leonard D. White's question[1] "who shall say whether Massachusetts is leading the way toward a form of judicial protection of rights of public employment which is destined to become universal as part and parcel of the *Weltgeist* of the twentieth century, or on the contrary has turned up a *cul-de-sac* from which she will presently withdraw in the interests of more aggressive personnel administration?"

During the nineteenth and twentieth centuries there has been a world-wide trend towards greater protection of government employees from partisan interference and favoritism on the part of superior officers. The French *fonctionnaire* has secured the right to see his docket, and his dismissal usually must come from a "council of discipline."[2] In England the staff side of the Whitley Councils may protest against arbitrary removals and the employee must be given reasons.[3] In Germany special disciplinary courts are needed to effect the removal of employees.[4] In various juris-

* "A former leader of Civil Service Reform" as quoted in the *Boston Review*, December 27, 1924.

[1] White, Leonard D., *Introduction to the Study of Public Administration*, p. 340.

[2] Sharp, W. R., *The French Civil Service: Bureaucracy in Transition*, Ch. X.

[3] Finer, Herman, *Theory and Practice of Modern Government*, II, pp. 1,436, 1,445.

[4] White, L. D., *Civil Service in the Modern State*, pp. 403-406 (*German Statutes*) edited by C. J. Friedrich; Finer, Herman, *Modern Governments*, Vol. II, pp. 1,456-1,465.

dictions in the United States, removals may be reviewed by the Civil Service Commission[5] or special boards, whose decision is often subject to court review by writ of *certiorari*.

The general trend toward employee protection may be taken as a reflection of any one of several basic theories. Idealistically, the trend may be regarded as a meritorious attempt to free the individual from external coercion which, latterly, includes even economic coercion[6] of which dismissal is an example. It may also be viewed as a means of furthering good administration by another theory of protection against spoilsmen; a theory which would add the "closed back door" to the "closed front door" (civil service as a barrier to political appointments).

Other proponents claim that since the ordinary safeguards of employees, such as competition or the strike, must be abandoned by public employees, the substitution of additional safeguards like restrictions on removal is justified. Dismissal of a public servant who has spent his life learning a highly specialized subject may be a catastrophe to him personally.

A more "practical" view of the situation is that government employees have learned to combine and, through combination, to exert pressure on legislative bodies in their own interests.[7] This view merges with the theory that any group of office holders in time develops a "proprietary" interest in its jobs and takes every precaution to secure itself from outside political influence. We say "outside" advisedly because there is frequently a large amount of internal politics in such a group of office holders.

Different jurisdictions base removals procedure upon varying combinations of these views. They vary especially in the amount of leaven of public interest which is introduced. In Massachusetts, as our study of employee influence in other chapters has demonstrated, the proprietary influence is probably predominant and the leaven is sadly lacking. The only idealists who are interested have been thinking in terms of protecting public employees so long that they have often forgotten that the original purpose of public personnel systems is to secure efficient servants for the state.

It is impossible to deny the need for more effective bureaucracies and less politics in government service as the rise of an industrial civilization

[5] E. G., New Jersey, Los Angeles, Chicago, Philadelphia.
[6] Whitehead, A. N., *Adventures of Ideas*, Ch. IV.
[7] See Ch. I.

forces us into bigger and bigger organizations of personnel.[8] But it is not necessarily true that more effective bureaucracies come from less interference with bureaucracy. The writer is inclined to believe that the case may be exactly opposite and that greater freedom in removing officials will in some cases be necessary to secure more effective interaction of governing bodies. Certainly, the trend away from protection of employees in the government-owned corporations of England and the emergency agencies of the federal government is thought-provoking. An increasing need for effective administration means that the hobbles of legal protection for employees become more of a handicap to administrators. As Commissioner White has remarked[9] "Certain it is that the Massachusetts plan assumes a standard of rectitude and moderation on the part of rank and file as well as executives which can hardly be assumed in all jurisdictions."

The answer to White's question is, in good Yankee fashion, a question itself—what form of government will we have in the future? If it is to be a syndicalist state or a trade union state, or a constitutional socialist state, restrictions against removal are likely to continue. If we are headed for more capitalism or controlled capitalism or communism, restriction will be less likely to prevail. The lessons to be learned from Massachusetts' experience will be useful only in determining how far restrictions should go in one case; how far they may be removed in the other.

II. *History of Restrictions on Removal in Massachusetts*

Two special interest groups—veterans and organized employees—combined to carry what they wanted through the legislature by continued pressure in the case of the law on removals. Special privileges in regard to removal were first demanded by the soldiers but subsequently obtained by organized employees. With one or two minor set-backs there has been a steady extension of protection.

First of the removal acts was a provision of 1894[10] that veterans could not be removed from classified city posts without a full hearing before the mayor. In 1896[11] it was added that selectmen might hold such hearings and that a written order was required before removal. As restated

[8] Friedrich and Cole, *Responsible Bureaucracy*, p. 20.
[9] White, L. D., *Public Administration*, p. 340.
[10] Acts, 1894, Ch. 519.
[11] Ch. 517, Sec. 5.

in 1901,[12] 72 hours' written notice, a statement of reasons, and a hearing before the State Board of Arbitration in the case of state employees and the mayor or selectmen in the case of municipal employees were required. In 1905, the same protection against lowering in rank or compensation was added.[13]

Meantime, organized employees were building up a similar set of safeguards—in this for the first time running counter to the reform group and operating without continuous support from the Civil Service Commission. The Commission at first opposed restrictions on removal[14] but subsequently felt the necessity for them.[15] Recognizing the danger of political removals, it was always emphatic on the point that annual terms for police officers were essentially bad.[16] In recent years the Commission has swung back to a recognition of the fact that all is not well with the existing law[17] on removals.

In 1911 came the all important provision that no civil servant should be removed or lowered in rank or compensation without a public hearing by the removing officer. The same law granted a review by police, district, or municipal courts. Originally introduced for police alone, the General Court extended it to all employees. The last possible protection —that of the courts—was thus given to employees, and a new function of district judges as arbitrators of administrative matters was established.[18]

Since then the provision has been restated but in major outlines it is intact. Occasional efforts to bring Massachusetts into line with other states by giving the power of review of removals to the Commission have not progressed well. On one occasion a representative of the Commission opposed such a bill on the ground that his office was already overworked.[19] The Women's Auxiliary of the Reform Association (always somewhat friendlier to the employee point of view than the men's association), also opposed the change.

Employees are not altogether satisfied with the present provision. The wording that the court should affirm the order of removal unless it

[12] Acts, Ch. 339, Sec. 2.
[13] Acts of 1905, Ch. 150.
[14] 2nd Annual Report, p. 18.
[15] 20th Annual Report, p. 12.
[16] 6th Annual Report, p. 11, 8th Annual Report, p. 12, 9th Annual Report, p. 8, 10th Annual Report, p. 11.
[17] Annual Report, 1924, p. 2.
[18] Acts of 1911, Ch. 624.
[19] *Boston Herald*, January 26, 1918.

appeared that the order was made "without proper cause or in bad faith" has aroused criticism as too vague. Five years ago an organization of state employees requested a general review by the State Board of Arbitration[20] as a result of dissatisfaction with several instances in which the courts had not reinstated individuals, but there was little general backing for the proposal. Occasional executives have urged repeal of the law with no result.

III. *Law of Removal in Massachusetts*

Initial power to remove civil service employees rests with the various authorities designated by statute, charter, or ordinance. Managers in Plan D (city manager) cities, department heads in most cities, mayor or mayor and council in case of removal of a department head, and special boards, may exercise the authority. The removing officer is often, but not always, the appointing officer.

Under the statute, it is important for the removing officer to give notice to the employee and set a date for a hearing. In the larger cities, the city solicitor often circularizes department heads to be sure they understand the necessity of notice and hearing. Where the statute has been disregarded, the courts do not hesitate to reinstate employees by mandamus,[21] even after considerable delays.[22] Notice from the City Solicitor will not suffice; it must come from the removing officer or board.[23] It may be given before,[24] but cannot be more than twenty-four hours after, the removal.[25] No particular manner of giving the notice is necessary.[26]

Notice must be given and hearing granted even in cases of employment which the department calls intermittent.[27] Working after a suspension does not mean acquiescence in suspension without a hearing.[28]

The hearing is not merely an opportunity for the employee to defend

[20] *Ibid.*, February 22, 1929.

[21] Logan v. Mayor of Lawrence 201, Mass. 506; Thomas v. Lowell 227, Mass. 116; Munds v. Supt. Sts. of New Bedford 264, Mass. 242.

[22] Peckham v. Fall River 253, Mass. 590.

[23] Stiles v. Council of Lowell 229, Mass. 208.

[24] Casey v. Carey 245, Mass. 12.

[25] Gen. Laws, Ch. 31, Sec. 43.

[26] Whitney v. Judge of Dist. Ct., 271, Mass. 448; Wallace v. Supt. Sts. New Bedford 265, Mass. 338.

[27] O'Brien v. Inspector Bldgs., Lowell, 261, Mass. 351; Bois v. Fall River 257, Mass. 471.

[28] Lake v. Fall River 264, Mass. 98.

himself. It is also an occasion on which the removing officer must produce the evidence against the employee.[29] This ruling has not been followed by the district courts to the extent of demanding detailed statements from the removing officer at the beginning of the administrative hearing, but there is no doubt that "proper cause" for removal must be shown at the administrative hearing.

While the removing officer must give notice, and he usually establishes the opportunity for hearing, the employee must request a hearing if desired.[30]

Conduct of the administrative hearing raises some interesting points. If the city solicitor (who appears for the removing officer in any subsequent court action) is wise, he appears at the hearing to advise on admissible testimony and to supervise the keeping of the record. Witnesses are often sworn but strict evidentiary procedure is not essential.[31] The statute permits presence of counsel and sometimes there is protracted cross questioning by city solicitor and counsel for the employee. A case is usually settled in a day, but some have been prolonged to a week or even longer time.

Since the officer who has already decided to make the removal presides at the hearing and gives the decision, the decision is in nine cases out of ten against the removed employee.[32] To reason from this, however, that the only function of the hearing is to prepare evidence for the subsequent district court hearing would not be accurate. In some cases the city solicitor decides before or during the hearing that the case cannot be defended in the district court and advises the removing officer to drop it. Thus the district court review may have the interesting effect of making the city solicitor a judge of removals.

On the other side of the fence, not many more than half the cases are taken from the administrative hearing to the district court. Frequently the attorney for the employee finds his hopes cooled by the poor presentation made in the administrative hearing, or the removed employee wearies of public discussion of his faults.

Three channels of appeal to the courts are open to the removed employee. On points of law he may petition directly to a single justice of

[29] McCarthy v. Emerson 202, Mass. 352.
[30] Reagan v. Fall River 260, Mass. 529.
[31] Whitney v. Judge of Dist. Ct. of Northern Berkshire, 271, Mass. 448.
[32] A questionnaire sent to city solicitors by Mr. Arthur H. Brooks in 1929 and another sent by the writer in 1934 gives these results. While the answers to the questionnaires were not complete, they probably represent a fair sample.

the Supreme Court for a writ of mandamus if he has exhausted other statutory remedies.[33] The case can then be reviewed by the full bench. The number of these cases has not been great but they have been important modes of settling disputed points of law. One counsel for employees has been fond of this method, so we find a number of mandamus cases from certain neighboring cities. A less frequently used method is action of contract on wages due an employee. This is first decided in the superior court but is subject to the usual Supreme Court review.

Most frequently used is the statutory review of administrative hearings by the district courts. In the case of police, a review may be taken under section 42B to determine whether or not administrative action was "justified." The review under section 45, open to all employees, is to determine if the administrative action was made "without proper cause or in bad faith." If not, it shall be affirmed. Some doubt exists as to whether or not evidence additional to that produced at the administrative hearing may be brought into the district court. The statute merely empowers the court to "review such action, hear the witnesses." Most of the district courts, however, seem inclined to avoid any effort at a retrial and limit themselves to a review.[34] As expressed by the Supreme Court, "This is not a retrial of the case as if it were unqualifiedly appealed from one court to another. In the words of Gen. Laws, Ch. 31, Sec. 45, it is a 'review' of the action of the removing officer or board and the judge is required to 'affirm the decision of the officer or board unless it shall appear that it was made without proper cause or in bad faith.' The function of the judge under this statute is not to give a complete new trial or a full hearing of the case upon its merits. 'Removal without proper cause includes a removal for reasons which are insufficient, frivolous, or irrelevant, and a removal grounded upon evidence which to fair-minded persons appears inadequate to justify the conclusion reached but falling short of an exercise of bad faith.' "[35]

The bulk of the district court decisions read by the writer have kept closely to the determination of proper cause or bad faith. In one instance where a district judge found the employee guilty but tried to order suspension rather than removal of the employee, the Supreme Court

[33] Reagan v. Fall River, 260, Mass. 529; Whalen v. City Forester of Waltham, 279, Mass. 287.

[34] Murray v. Boston 233, Mass. 186; Mayor of Medford v. Judge of the First District Court of Eastern Middlesex 249, Mass. 465. Both these decisions are frequently cited by the district courts.

[35] Quotation is from Murray case. Mayor of Medford v. Judge, 249, Mass. 470-1.

promptly quashed his action.[36] If the administrative action was in good faith with proper cause, the district court had no further jurisdiction.

It would be a mistake, however, to assume that the district court review is not an intrusion on the administrative process. The question of what constitutes "proper cause" or "good faith" is essentially factual and, hence, a matter of administration. District court judges have been compelled to pass on whether or not employees have come to work on time,[37] the physical condition of a kitchen attendant,[38] the level of salaries for hospital employees,[39] the efficiency of a bookkeeper,[40] whether a water department foreman was discharged for reasons of economy,[41] whether a hospital superintendent was necessary,[42] and whether a mechanic had properly lubricated a machine.[43]

To attempt to lay down general principles as to what constitutes either good faith or proper cause is utterly impossible. Since the decision of the district court is "final and conclusive," the Supreme Court has never had opportunity to define the phrases. District courts vary widely. In one case the petitioner found bad faith but did not find "that the respondent had any ill will toward the petitioner or was actuated by any motive of animosity to her." In the same case the judge found the removing officer "warranted in finding the petitioner guilty of carelessness in doing some of her work, but not of inefficiency.[44] It is submitted that these distinctions are hardly good law.

Since the depression, it has been easier to win support of removals from district judges on grounds of economy. Other grounds of removal have frequently been cloaked under the guise of economy. However, the results of the questionnaires sent to city solicitors demonstrate that most of the district court cases both in 1929 and in 1934 went against the employee, so the change resulting from the economy plea is not very important in the state as a whole. In particular cities where the district judge was sympathetic to employees, need for economy has doubtless altered the trend of the cases.

[36] Mayor of Lynn v. Judge of Dist. Ct. and Southern Essex, 263, Mass. 596.
[37] Sheehan v. Board of Park Commissions Dist. Ct. Springfield. Docket numbers are not given for most district court cases because the copies of decisions lacked citations and the numbers are not easily available.
[38] Moore v. Bd. of Health. Dist. Ct. Springfield.
[39] Clapper v. Bd. of Health, Dist. Ct. Springfield.
[40] Seifen v. O'Hearn, 3rd Dist. Ct., Eastern Middlesex, No. 5004 of 1932.
[41] Dist. Ct. of Chicopee, Moynahan v. Demosi.
[42] Higgins v. Maguire, East Boston District Court.
[43] Denault v. Hammersley, New Bedford Dist. Ct.
[44] Seifen v. O'Hearn, *op. cit.*

While an exact computation is impossible, it is probable that a majority of removal cases deal with the labor service. The provision that seniority shall be the determining factor in retention of laborers when a cut in the force is necessary, causes a great deal of difficulty. If a particular clerk is removed, it is only necessary to prove need for economy or superfluity of the position. If a particular laborer is removed, one must be ready to prove that there is good cause for removal unless he is junior on the list. Since department heads frequently find it necessary to weed out older and ineffective men, the number of cases turning on seniority in the labor service is very large.

Some trouble has been experienced with the matter of classification of laborers under the seniority rule. A number of cities used to create special labor classifications in order to get particular men on the city payroll. How seriously should these classifications be treated in removal according to seniority? It has been held that a man registered as a laborer cannot gain seniority credit as "chauffeur and auto mechanic" until transferred to that group,[45] but in many similar cases it has been decided that slight differences in classification do not justify a disregard of the seniority clause.[46]

IV. *Administrative Evaluation of Massachusetts Removal Procedure*

Numerous psychological intangibles make it very difficult to evaluate the removal procedure of Massachusetts Civil Service. Hence, it may be wise to appraise a few bits of machinery before we plunge into the question of the desirability of court review.

There is general agreement that the administrative hearing in which the man who brings the charge and makes the removal also sits in review of his own action, is an undesirable procedure. As we have pointed out above, it fulfills some minor purposes. However, a hearing before a special administrative tribunal like those in Germany or England would serve the same purposes and give the employees more real protection. Local officials have frequently suggested such a body. They have differed on composition but agreed that the officer who makes the removal should not be a member. Legislators who usually represent the employee viewpoint almost succeeded in abolishing the present administrative hearing in the 1934 General Court.

Another suggested improvement—less unreservedly desirable but still valuable—is the elimination of counsel at the hearings. Anyone who

[45] Tremblay v. Fall River, 263, Mass. 118.
[46] See, e.g., McDonald v. Fall River, 273, Mass. 368.

has sat through or read the records of administrative hearings will agree that much time is wasted and the essential issues are often obfuscated by an excess of cross questioning. The city solicitors are less objectionable than counsel for employees but both are bad. Naturally, it is difficult for a department head with no court experience to try to cut down the barrage of questions over which he is presiding. Fortunately he is not hampered by the entire body of rules of evidence.

The merits of district court review, of course, depend in large part upon the calibre of the judge. Massachusetts district court judges are appointed by the Governor and Council for life; are paid salaries varying from $1,200 to $6,000 according to the population of the district;[47] and are relatively free from political control. The writer has the impression, which cannot be readily verified, that their prestige is less in the Boston Metropolitan area than elsewhere in the state. Whether or not that is true, it is certain that the ability of individual judges varies greatly. The Seifen case cited above is an extraordinary example of confused reasoning. The Medford case quashed by the Supreme Court was ineptly handled by the district judge. On the other hand, the Springfield cases have been fairly analyzed. Since many decisions are merely memoranda, a thorough study is impossible. The writer's conclusion is that most of the district judges lack experience in the field of personnel administration and, hence, cannot make capable decisions.

The time consumed in these cases is of serious importance to administrative officials. If a case is appealed to the higher courts, it may take years. If it goes to the district court, it must be appealed within thirty days of the administrative hearing. The amount of time required for the district court review varies with the condition of the docket. The entire process from initial removal to decision of the district judge takes from two to five months. The prospect of sitting through two long hearings and waiting for a court decision is very discouraging to active administrative officers. It doubtless hampers good administration and at the same time gives employees more protection than the statistics of court decisions given above would indicate.

Expense to the city is not very great except indirectly through the undesirable effect on the working force's morale. It is now fairly definitely settled that the removal provision is no barrier to general salary cuts.[48]

[47] Gen. Laws, Ch. 218, Sec. 78.

[48] Alger v. Special Justice of Dist. Ct. of Brockton, Opinion filed July 31, 1933 in Supreme Judicial Court.

There can also be little doubt of the right of proper authorities to abolish positions in the interests of economy,[49] or make reductions in the force on grounds of economy.[50] The city solicitor's office has to function in any case, so legal costs are not great. It is in the general effect on administration that the difficulty comes. Department heads and mayors almost invariably testify that the difficulty of removal keeps inefficient people on the staff. When an employee is reinstated by court order, he is likely to be insubordinate, and the situation is certainly embarrassing for his superior. During the hearings the routine of the office is broken by calling in employees as witnesses, and the atmosphere of work is vitiated by chattering and gossiping about the removal.

At the same time the present removal procedure is no clear gain to the employee. Expenses for counsel are oftentimes considerable and the personal publicity is not desirable. Since the district court must either affirm or reverse the decision of the administrative officer, the court hesitates to make trouble for the department head and oftentimes overlooks slight injustice to the employees, as the figures indicate. The great gain to the employee comes in the natural hesitation of the department head to go through all the trouble of removal.

Throughout, this process supports our original theses. The Civil Service Commission is not responsible for the removal process, but a civil service system which emphasizes employee protection at the cost of administrative efficiency and which makes no effort to create professional spirit *is* responsible. The proprietary theory of the Massachusetts civil service employee is beautifully illustrated in a program which makes no allowance for administrative needs. With some exceptions in the case of police forces, even an unfettered right of suspension is denied the man who is supposed to be responsible for administration. General salary cuts can be made but are subject to judicial review. The inflexibility of the system is all too apparent.

Removal procedure is also an illustration of the difficulties attendant upon carving personnel administration out of municipal government and handing it over to the state. Distrust of "local politicians" has been carried to the point where it hampers administration in the best and most fairly governed cities of the Commonwealth. What might be necessary in some cities has been clamped upon all cities as a result of the policy of centralization.

[49] Yunitz v. Chelsea 270, Mass. 179.
[50] Whalen v. City Forester of Waltham 279, Mass. 287.

Another example is the power of the Commission to reinstate anyone separated from the civil service. Since this has been held to include suspensions for reasons of discipline or economy, it has been justly criticized as an inroad on municipal administrative freedom.[51]

If we turn for a moment from description and analysis to suggestions and remedies, we find a difficult problem. Personal observation and the testimony of civil service employees and even municipal officials have convinced the writer that some form of employee protection is desirable. Previous analysis seems to indicate that it may be part of a world wide movement to eliminate arbitrary action from administration. But the particular form adopted in Massachusetts seems to be cumbersome and unnecessarily hard on those who are responsible for the work of government.

We feel that the best solution is the review of removals before an administrative board—a system favored by many city officials. It coincides with the practice elsewhere as our introductory section demonstrated. Since the Civil Service Commission, under the Massachusetts system of centralization, is already the victim of much friction, irritation, and complaint, it would probably be unwise to place the power of reviewing removals with the Commission, though commissions have been given such power elsewhere. A board composed of the solicitor (whose advice on legal points is needed), possibly the mayor, and one civil service employee or a local representative of the Commission, might do for cities. Perhaps since mayor and solicitor are likely to be of one mind, either one of them, a civil service employee, and a representative of the Commission would suffice. Other arrangements could be worked out. It is interesting to notice that a quarter century ago when judicial review was introduced, one proposal advocated a board composed of one representative of the employee, one of the removing officer or board, and a third to be chosen by the first two.[52]

An administrative board would add the elements of impartiality which the present system lacks and, if the district court review were eliminated, would add the very important element of speedy decision. Doubtless, there would be a few more petitions for mandamus but since a legal question must be raised before the writ is issued any important increase would be prevented. Opportunity could be given the administrative board to change the judgment in case suspension seemed more ap-

[51] Joint Special Committee Report, pp. 4-6.
[52] House No. 268, 1911.

propriate than removal, and thus the inflexibility of the present procedure would be removed.

Employee opposition to such a proposal is likely to center on suspicion of the administrative officers. Review by the courts of law sounds very attractive. But we venture to assert that review by administrative tribunals would be cheaper for the employee and furnish more effective protection. Figures which we have collected from other jurisdictions indicate that administrative officers are far more likely to side with the employee than are Massachusetts district judges under the present statute. For example a study of New Jersey Civil Service Commission reviews of removals made by the writer over a period of years shows over forty per cent of the decisions in favor of the employees. A much smaller proportion of reinstatements occurs under the Massachusetts procedure.

V. *Retirement*

Administration of retirement and pension laws in Massachusetts has much the same connection with the Civil Service Commission which the parent has with the school teacher. They both work on the same material, with somewhat the same ends in view, but with very little institutional or personal cooperation. Retirement laws, then, are not an integral part of this study but are introduced because, as a supposed solution to the problem of superannuation in the civil service, they affect the conditions of age and efficiency which we have already discussed in connection with problems of recruitment.[53] The purpose of this section is to see how Massachusetts retirement laws help or hinder the acquisition of an effective public personnel.

The general trends of pension legislation in the Commonwealth and throughout the country have been so well treated elsewhere[54] that we can content ourselves with references and a hasty summary of the outstanding features. If the reader should read through Chapter 32 of the General Laws,[55] he would find (1) a state retirement system which dates back

[53] See Chapter II.

[54] See Massachusetts House Doc. 1,400 (1910) *Old Age Pensions, Annuities, and Insurance;* House Doc. 2,450 (1914) *Report of the Massachusetts Commission on Pensions;* Meriam, Lewis, *Principles Governing the Retirement of Public Employees* (N.Y. 1918); White, L. D., *Public Administration* (N.Y. 1926), chap. 16, pp. 341-366; Mayers, Lewis, *The Federal Service: A study of the system of personnel administration of the United States Government* (N.Y. 1922); Studensky, Paul, "Pensions in Public Employment" *National Municipal Review,* Vol. II, pp. 96-124 (1922).

[55] *Massachusetts General Laws,* Tercentenary edition, 1932, chap. 32.

to 1912, (2) a system for teachers which began operations in 1914, (3) an optional retirement law for counties in effect since 1911, (4) a system for all employees which cities and towns have had an opportunity to accept on various occasions since 1910, (5) various special systems for veterans, distinguished from the above chiefly by their non-contributory character, (6) adoptive non-contributory pension laws for police and firemen outside Boston, and (7) systems for miscellaneous groups like metropolitan police, state police, scrubwomen, probation officers, and, last but not least, laborers. A number of cities have by special statute[56] established contributory retirement systems, which usually extend to all entrants to municipal service and which supplement the general adoptive legislation.

These systems vary greatly in regard to the contributory feature, the maxima and minima of pension payments, the age of retirement, and other characteristics. A steady trend towards contributory plans is noticeable and proposed legislation may make these plans general. Otherwise, however, the differences seem likely to continue.

We are particularly concerned with statutory provisions for ages of voluntary and of compulsory retirement—the latter being especially significant for standards of government in the Commonwealth. Provision for voluntary retirement after 60 and compulsory retirement at 70 is found in the law for state employees, for county employees, for teachers, and for city and town employees under the adoptive provisions of Sections 26-31 of chap. 32, General Laws. In the last group, employees over 60 may be retired by the department head with the consent of the retiring authority.[57] In the case of teachers, school committees may retire the employee after 60. It is not surprising to find that a special favor may be granted to veterans in the form of retirement after a limited period of service[58] without contribution. For laborers, the voluntary age is sixty and the compulsory age sixty-five.

Most interesting is the fact that there is no provision for automatic compulsory retirement of either police or firemen at 70 or any other age. When one considers that these are the most active occupations in the government service, the omission of the automatic retirement age of 70

[56] For special statute relating to systems in Worcester, Newton, Somerville, Cambridge and Chelsea, see *Massachusetts Acts and Resolves*, 1923, chap. 410; 1928, chap. 355; 1930, chap. 184; 1931, chaps. 453 and 448 respectively.

[57] The Treasurer, a mayoral appointee from the members of retirement association, and a third to be chosen by the first two.

[58] *General Laws*, chap. 32, sections 49-60.

seems startling or even shocking. The lamentable condition of a number of municipal police forces in the Commonwealth can be traced directly to the superannuation of members of the force and, even more often, of the officers. When a chief of police does not retire until he is 86 or when the chief and half the captains are over 70—conditions which have actually occurred—inefficient police work is almost to be expected. The lack of proper retirement provisions also makes the problem of securing effective higher officers doubly difficult. When the higher ranks are filled with superannuated men and the law requires promotion from rank to rank, rule by senility is hardly avoidable.

Certain modifying features of the law are theoretically helpful but actually of no great value. The mayor and aldermen may retire a police officer who has served over twenty years,[59] but it is a rare police officer who cannot find friends enough in the city council to make this provision inoperative. As a concession to the clear need for less senility in police work, judicial review of removal does not apply to policemen over 70.[60] This provision would be powerful in the hands of a chief who wanted to keep his force young, but rarely does a chief wish to remove the men he has worked with for years. The mayor may not even remove a chief over 70 without consent of the council in Plan B (weak mayor) cities[61] so the provision becomes of little use in much of the Commonwealth.

Why does Massachusetts take especial precautions to retire clerks at 70 and yet make it possible, even likely, to retain police and firemen in far more arduous occupations where the strength, agility, and quickness of youth are essential to public safety? The answer lies in part in the fact that police and fire pension systems were enacted prior to general consideration of the needs of superannuation statutes. But the major reason for the continuance of this state of affairs is the known political potency of the associations of police and firemen[62] which have been described as the "third house" of the Legislature. Another possible reason is that a reaction against efforts to secure premature retirement[63] may have made maximum age limits seem undesirable.

[59] Gen. Laws, chap. 32, sec. 83.

[60] Gen. Laws, chap. 32, sec. 90.

[61] Gen. Laws, chap. 43, sec. 61.

[62] See Chap. I.

[63] See Transcript, May 11, 1911 for a proposed firemen's pension bill which Governor Foss vetoed on the ground that it made retirement on pension at too early an age. The same objection can be laid against present-day veterans' retirement provisions.

This weak link in the protective chain of Massachusetts government could be strengthened by several devices. Most obvious of immediate remedies would be the amendment of police and fire statutes to provide automatic compulsory retirement at 70 or, in consideration of the hazardous and strenuous nature of the occupations, 65 years of age. In place of automatic retirement statutes, which seem politically unfeasible, cities and towns, might by ordinance insert a compulsory retirement age. Some of the special statutes include such a provision,[64] while almost all of the special statutes discourage "hanging on" to increase pensions, by the simple device of calculating maximum payments at the age of 60. Eventually, the new city statutes will cover most police and firemen with a voluntary retirement age of 60 and a compulsory retirement age of 65. Similar provisions are now in effect for state employees and teachers but not for county employees.

VI. Conclusions

Once more as in the case of promotions the desire of the commission to evade the dangers of partisanship, the desire of employees to entrench themselves securely in office, and the commissioners' distrust of local "politics" have contributed to weaken the service through the elaborate system of employee protection against removal. Although actually most appealed cases have been decided in favor of the removing official, the potential waste of time, and general psychological effect on office routine of removal proceedings tend to deter officials from dismissing employees unless the need is urgent. The present situation is unsatisfactory and yet there is a genuine necessity for some form of employee protection against official caprice. Possibly the best solution would be the review of removals by an impartial administrative board.

The full dangers of strong employee organizations working for their own interests without regard to—and often in opposition to—public interest are well exemplified by the retirement laws. Especially in the case of the police and firemen, employees have "protected" themselves against unfair dismissal so effectively that the protection of the Commonwealth has been imperilled.

[64] See e.g., Acts of 1928, chap. 355, Sec. 6 (1) Par. 2. Newton.

CHAPTER VI

STATE HOUSE AND CITY HALL

"We both love the people, but you love them as infants whom you are afraid to trust without nurses and I as adults whom I freely leave to self-government."—THOMAS JEFFERSON

I. *Principles of Centralization*

This chapter, like the preceding one, deals with a question in which analysis of Massachusetts experience is valuable not only to citizens of the Commonwealth but to those interested in problems of public personnel the world over. Only two states—Massachusetts and New Jersey—entrust the administration of local civil service to a state commission, and in only two others—Ohio and New York—does the state commission make efforts to supervise local civil service. Once again the Massachusetts tradition of independent thinking has produced a scheme which is almost *sui generis* and hence worthy of special analysis.

Obviously the need for centralization varies under different circumstances, and all we can hope to do here is to give a sketchy summary of the general principles most favored by political scientists.

It would be useless to do more than repeat briefly the advantages customarily attributed to local self government and to strong central control. The former is praised as a means of keeping control with the people; furnishing a training school for democracy; making it possible to adjust the government to different circumstances of territory, wealth and population; preventing "bureaucratization," (whatever that may be) offering a field for experimentation; establishing a firm foundation for the central government; *et cetera ad infinitum.* Equally enthusiastically, proponents of central control make the welkin ring with cries of more efficiency; higher standards; greater focussing of responsibility; larger financial resources; and the need of a government as large as the social and economic institutions which it must control.

Three compromises between these contradictory views are frequently advanced. The first to be developed was the phrase of John Stuart Mill[1] that knowledge should be centralized but power should be decentralized. He was doubtless thinking in terms of the sturdy institutions

[1] Representative Government (N.Y., 1882), p. 304.

of local government in England and the great masses of knowledge on local government matters in the central office in Whitehall, but his conclusions have nevertheless a certain general applicability.

A few years ago one frequently heard in America the alluring generalization of Schuyler Wallace that we need more administrative and less legislative supervision of localities.[2] Wallace pointed to European countries where the amount of central administrative supervision is greater and central legislative control less than in the United States and predicted a similar development for us. He also felt that *persuasive* rather than *compulsory* techniques of state administrative supervision were likely to make headway in this country.[3]

Third of the significant efforts to reconcile the contradiction of local government and central is the frequently quoted "national minimum" of those great English students of local institutions, Sidney and Beatrice Webb. Expressed in other terms, it is the idea that the central power should set a standard of efficient governmental action below which localities are not permitted to fall. Above those standards, the locality should be permitted to conduct its affairs with full freedom for local enterprise and experimentation.

To the writer, Mill's statement is helpful but not sufficiently inclusive for a philosophy of federalism. It omits the problem of distribution of revenue between areas of unequal wealth and its passes over the difficulty of putting the centralized knowledge to use without the centralized power. Wallace's generalization, coming from an effort to reconcile the home rule movement with the tendency towards administrative supervision, is even less acceptable. Why should state administrations be superior to the legislatures which set them up? Even if his statement is limited to mean that we have gone too far in legislative and not far enough in administrative control, the distinction between legislation and administration is thin and the statement hardly furnishes an adequate basis for reasoning.

The Webb's concept of the "national minimum" is far more attractive.[4] It eliminates the chance of one area underbidding another to attract business by governmental inefficiency; it helps bring "backward areas" along, and yet it does not stop local initiative. Nevertheless it is open to certain difficulties. Among them are the embarrassing questions: How

[2] State Supervision over Cities, Ch. I.
[3] *Ibid.* See especially, p. 38.
[4] Webb, Sidney, Grants in Aid: pp. 23, 103.

may a central power enforce its standards without controlling administration? How can we be sure what constitutes "standards" in controversial cases? What is a minimum?

Despite these difficulties, each of the maxims contains much of value and is worth remembering. In applying these theories to Massachusetts several features of the local situation must be borne in mind. The General Court is unfettered by constitutional limitations about home rule or local self government. A considerable concentration of professional and educational leaders in and about Boston has given opportunity for centralization of knowledge. In states like Texas and California, central control of municipal personnel would be impossible because of distance from the capitol, but in Massachusetts two-thirds of the population has more or less ready access to the State House.

On the other hand, the sturdy traditional independence of municipal units in Massachusetts acts as a practical invalidation of the State's legal power. And it should again be emphasized that the unfortunate rift between the political leaders of many large cities and the leaders of the smaller towns who for a long time controlled the government of the Commonwealth has engendered a great deal of opposition to the Civil Service Commission. That rift has created marked differences of opinion as to desirable standards and much jealousy about exercise of power.

Given these conditions, how does Massachusetts civil service meet these three theories of ideal central-local relationships? The following pages will attempt to answer this question, and to weigh the evidence for and against our second hypothesis that state administration of city civil service has caused much administrative friction and political unpopularity for the merit system.

II. *Questions of Administration*

A. *Locus of administration.* So carried away with the enthusiasm of reform were the original civil service advocates that they gave relatively little attention to the internal administration of their radical experiment. Complacently satisfied that city governments as well as the state government had been brought into the protective arms of civil service, they disregarded the grave problems inherent in this aspect of the civil service law of 1884.[5]

There were problems, however, which the Civil Service Commission

[5] *Civil Service Record*, June, 1884, p. 4.

had to face. The statute made it possible to centralize or to decentralize examinations and the entire administrative machinery.[6] In the first year local boards of examiners were chosen with an eye to securing distinguished leaders of the communities as backers of civil service.[7] So far as practicable, the chief examiner was to attend examinations held by these boards in an effort to maintain state-wide standards.[8] Actually, it was not long before "attendance" of the chief examiner meant most of the work. Within a decade, questions were set, answers graded, and lists drawn up in the central office. Local examiners read the "reports" (short essay answers) of candidates and graded them on the spot but were otherwise of no functional importance. In 1913, their names disappeared from the annual reports. At present, local representation of civil service is limited to the designation of certain municipal officials with whom applicants for employment may register. From time to time creation of local commissions has been suggested by individuals who felt aggrieved by various actions of the central commission but opposition of civil service reformers and others has usually defeated the proposal.[9] Thus has the centralization of knowledge been effectively accomplished, but by means of a centralization of power.

B. *Enforcement Machinery.* An important part of any effort to administer local civil service by a state commission is necessarily the method of enforcing laws, rules, and regulations. Standards cannot be enforced without some administration. First a penalty was provided for violation of the civil service act.[10] The statute provided that the Commission might, if any person was illegally employed, notify the disbursing officer to that effect and thus stop payment of the salary involved. The provision was hardly effective, however, because the Commission had no regular means of checking on legality of all city employment and the disbursing officer might disregard its suggestions. So an experiment was made in Boston with the provision that the treasurer should not pay any person whose name did not appear on a pay roll certified by the Commission.[11] Three years later the law was extended to cities outside of Boston.[12]

Checkup on illegal appointments is not absolutely complete yet. Pay-

[6] Acts of 1884, Ch. 320.
[7] *First Annual Report,* 1885, pp. 8-9.
[8] *Ibid.,* p. 49, General Regulations 1.
[9] Massachusetts Civil Service Association, Report of the Executive Committee, 1916-20, p. 11.
[10] Acts of 1884, Ch. 320, Sec. 24.
[11] Acts of 1908, Ch. 210.
[12] Acts of 1913, Ch. 520.

rolls are checked only once a month so illegal appointees may be paid three weeks out of the month. Moreover, it is difficult to judge whether there is real need for provisional or temporary appointments in distant towns and cities, and mistakes are sometimes made.

Any judgment of the merits of state supervision of local civil service must take into consideration the fact that a trip to the Civil Service Commission offices in the State House whenever an unusual appointment is needed is a serious inconvenience and causes irritation to municipal officials. Personnel administration is an integral part of the whole municipal machinery which cannot be conducted at a distance from the City Hall without real trouble. Provisional or temporary appointments must be made, as the practice of the Civil Service Commission shows. While it is undoubtedly necessary to have the personnel agency pass on such appointments, it is a nuisance to travel to Beacon Hill and wait for a busy commissioner or to write to him and await an answer.

It is an interesting fact that another instrument of state administrative supervision of cities—the Division of Accounts—makes little effort to check up on legality of city payments as far as civil service is concerned. Since the audits conducted by the Division of Accounts are largely concerned with legality of payment, it is curious to see these two similar agencies functioning independently of one another. The investigating staff of the Civil Service Commission is far from sufficient and could well be supported by the Division of Accounts.

The usual explanation of this failure to cooperate is that the Division of Accounts has always relied on the persuasive technique of administrative supervision[13] and hesitates to burden itself with the perhaps good but certainly unpopular cause of civil service control. It is also true that officials of the Division of Accounts are not versed in all the intricacies of civil service law and are not equipped with copies of approved payrolls. The writer feels that some of the lack of cooperation boils down to what might be called *"departmentalism"*—the fact that state executives move in a mental orbit limited by the sphere of their own departmental activities. This is an important phenomenon in any consideration of state-local relationships in a country where there is nothing like the French prefectoral system to bring agencies of state supervision together. If one looks further than the Division of Accounts

[13] See the author's book, *Financial Control and Integration*, p. 40ff.; also his article in *American City Magazine*, August, 1933, p. 64, entitled "Massachusetts Municipalities Audited by Commonwealth."

and the Civil Service Commission in Massachusetts, he can find state supervisory agencies not only failing to cooperate with one another but even working against one another.

C. *Transfers and Reinstatements.* In addition to the serious difficulties attendant upon the processes of promotion and removal which have been described in other chapters, local officials have been greatly troubled by civil service control over transfers and reinstatements. We will discuss these problems in the order given.

The rules of the Commission about transfers are still simple, though they have gone through a certain tightening process. Originally the rules allowed transfers without examination from one department or institution to a similar position in the same class elsewhere upon mutual consent of the respective department heads and upon consent of the person to be transferred.[14] But, as early as 1900,[15] transfers in the labor service were made subject to consent of the Commissioners. The present rule is that transfers in both official and labor service must be approved by the Commission. This increased application of the powers of the Commission over transfers had its parallel in other fields of personnel control. Friends of Massachusetts civil service call it "stopping the leaks" while enemies describe it as "grasping for power." The truth probably lies in between.

A few typical transfers allowed and disallowed give a picture of the process.[16] The transfer of a stenographer from a city Recreation Department to the Water Department was permissible as were transfers of telephone operators and principal clerks from one department to another. In every case the duties of old and new posts were nearly identical. On the other hand, transfer of a secretary and senior clerk from a city Health Department to the position of Secretary-Registrar in the Institutions Department at an increase of $500 a year was not allowed. "The duties were somewhat similar, but complaint had been made to this office that employees of the Institutions Department were better qualified for this position," said the Commission.[17] Transfers from Correction Officer to House Officer or to Parole Officer were likewise disapproved on the ground that the positions were of a different type and the examinations very different. It is evident that a very rigid line is drawn.

[14] Rule XXVI (1884).
[15] Rule XLVII (Revised Rules of 1901).
[16] These were kindly furnished me in a memorandum by Miss Newton of the Civil Service Commission staff.
[17] Memorandum referred to above.

While it is clear that free use of transfers by department heads might give some opportunity for politics, it is also evident that the power of vetoing transfers enters into the very heart of municipal administration. One of the most important functions of a mayor or department head is the power to shift his subordinates to the positions in which they are most useful. When, for example, a mayor wishes to use part of the laboring force in the cemeteries in summer time, while in the winter the same men are more usefully employed in the street department at snow removal, it is naturally irritating to have an official in the State House tell him that this cannot be done because his action might be construed as "favoritism" by some of his subordinates. One city evaded such difficulties by obtaining a Civil Service Commission decision that its "Ways and Drainage Commission" which exercised such diverse public works functions as laying water mains, collecting refuse and garbage, and working on the streets was a department. This method of evasion, however, causes certain technical difficulties with retirement of laborers under the seniority provision, and, hence, was not widely copied.

Another frequent source of irritation is the control exercised by the Commission over reinstatements. Under the law the Commissioner must approve reinstatements. Oftentimes a man is removed from police or fire or official service for intoxication or minor moral dereliction. He prevails upon some mayoral candidate to promise reinstatement in return for political support. If his candidate wins, an embarrassing question is presented to the Commissioner. A vote of city council or town selectmen is also required for reinstatement but that is usually easy to secure.[18]

D. *State-Wide Lists.* One of the obvious advantages of a system of state supervision of local civil service should be the possibility of moving trained and able officials from city to city within the state. Unfortunately, Massachusetts has made little or no use of this opportunity. Fearing the war cries of "local autonomy" and "home jobs for home people," the Commission conducts examinations which are limited to residents of the city concerned. In some instances, usually at the request of the city officials, examinations are thrown open to all residents of the state but those instances are regrettably few. It is probably fair to say that it would be politically impossible for the Commission to demand state-wide competitions and politically dangerous even to argue for

[18] General Laws, Ch. 31, Sec. 46C, 46D.

them. But, while the Comission is not to be blamed, the fact remains important for political science. State-wide administration has not led to the best use of state-wide exchanges of municipal personnel.

Occasional instances of choice of managers or department heads from outside the city or town concerned indicate that desire for trained men is not altogether lacking in Massachusetts. It is unfortunate that existing civil service rules and habits should preclude the possibility of outside appointments, as they largely do at present. A suggestion of a state-wide list of eligibles for particular posts becomes very important in this case. There might be certification of a state list and a local list, with choice between them granted the local authorities. If a practice of outside appointments should be started, the possibility of regular progress from professional training schools to professional civil service posts would be greatly increased. The need of such a system of feeding has been developed in a previous chapter.

E. *Municipal Department Heads.* Two major efforts to protect city department heads from politics are worthy of attention. The most striking is the method employed from 1910 to 1933 to keep Boston appointments up to standard. Instead of the Civil Service Commission presenting the man to the appointing officer, the process was reversed and the mayor made appointments subject to consent of the Commission. At times the provision was undoubtedly valuable in raising the standard of mayoral appointees but it was also a serious infringement on the administrative autonomy and responsibility of Boston city government. At the same time it raised unusually troublesome problems for the Civil Service Commission. The mayor's "game" was frequently to appoint someone who would "just get by" the Commission. For years the Commission chafed under the difficulties involved and recommended striking out the provision. The only method of judgment was hearsay opinions of the appointee's business or professional qualifications. Rejection of an appointee loosed a flood of recrimination from his friends and entailed the hostility of the mayor. Hurt feelings and unfavorable publicity reacted against the whole process of civil service. The Commission became responsible for municipal mismanagement with very little real opportunity to choose municipal executives. As a tool of political science, Commission approval was a flat failure.[19] The relation to our second hypothesis is clear.

Extension of actual civil service protection to department heads in

[19] A contrary viewpoint may be found in Governor Fuller's veto of a bill to make the Civil Service Commission give reasons for rejecting appointments. No. 1273, 1928.

other cities has proceeded steadily from year to year.[20] The statute excludes from civil service judicial and elective officers whose appointments are subject to confirmation by the city council, and heads of "principal departments" of a city.[21] But a long list of department heads has been "covered into" civil service by the process of special acts of the legislature. A well-liked or politically powerful police chief or superintendent of streets decides to insure himself against removal by some future mayor. He usually manages to secure the endorsement of mayor and council, and a delegation troops down to the legislative Committee on Civil Service. The committee generally reports a bill putting that particular officer under civil service, usually with the condition of favorable action of a local referendum. All goes merry as a marriage bell until the official becomes incompetent or a successor must be chosen. Then the mayor who wishes to remove or appoint finds himself with a real problem on his hands.

The waste of time and energy and the unscientific outlook in this method of "covering in" are clear. Seldom is the opposition important enough to justify wasting the time of a legislative committee on passing individual bills. The much used Massachusetts method of general statutes which may be "accepted" by city or town is far preferable and there seems to be little reason for not adopting it in this case. This method was successfully employed in the case of a general statute permitting classification of police chiefs[22] which 20 of 32 Massachusetts cities accepted during the year to which it applied.[23]

III. *Political War Cries*

An aspect of the state-local problem which cannot be overlooked, though it also cannot be accurately gauged, is the curious way in which various personnel issues are linked to problems of "home rule" and state supervision. It is probably fair to say that most of these linkages have reacted against efforts to improve the quality of Massachusetts public personnel and, hence, tend to prove our thesis that state administration of local civil service is not giving us the desired standards. For example, under the war cry of "home rule" the essentially executive function of determining certain physical qualifications of firemen and police has been transferred from the Commission, not to the mayor, but

[20] In recent years, there has been a slowly increasing amount of opposition.
[21] General Laws, Ch. 31, as amended. Sec. 5.
[22] General Laws, Acts of 1911, Chap. 468, Sec. 1-3.
[23] See Chapter I, Sec. 4.

to the city councils.[24] Review of removals, instead of being assigned in the usual and workable way to the Commission, has been entrusted to local courts of uncertain calibre.[25] For a considerable number of years a veteran could be removed only by the consent of the city council, an obviously bad provision which was supported on grounds of local autonomy. The equally bad requirement of council consent to reinstatement[26] is based on the same grounds. These issues need not have been confused, and such functions could have been properly kept in executive hands even though the retention of some local power was desired under a system of state administration. In judging Massachusetts experience, one cannot deny that agitation for "home rule" has often served as a weapon in attacking good personnel administration.

IV. *State Control and Standards*

Thus we see that state control has, for several reasons, lowered personnel standards throughout the Commonwealth. Veterans' preference of a pernicious sort has been forced on cities, some of which at least, would not have lowered their standards so much had they had their own choice. One must fear for local autonomy when the Commonwealth thrusts particular groups into official positions in individual cities and towns. A method of promotion, especially in police forces, which seriously handicaps the efforts of municipal leaders to render adequate and efficient services has been made compulsory in cities and towns. It is noticeable that the Commonwealth does not use that system with its own employees. Efforts to transfer badly placed employees or to remove unfit employees are thus practically nullified by the state.

At the same time the Commonwealth has failed to raise standards in important respects. The lack of an automatic retirement age for police and firemen is a glaring instance. The high entrance age set for municipal services is another. Failure to articulate public service with the educational system or to devise any means of getting good men for higher posts is perhaps the most important omission. The point of view of a state-wide personnel standard upon which leading municipalities could improve has been largely submerged in the point of view of beating out the local "pols." No real attempt to gain from inter-city exchange can be found.

[24] General Laws, Chap. 31, Sec. 4, par. 4.
[25] Chapter V.
[26] General Laws, Chap. 31, Sec. 46C.

In the preceding paragraph lies the real objection to the Massachusetts system. Veterans' preference and over-emphasis on protection of employees can be found in many civil service jurisdictions and doubtless would plague most of the city commissions if Massachusetts had city commissions. Most of the administrative difficulties with our personnel policies can be traced back, at least in part, to the political unpopularity of state administration of civil service. The administrative friction and political handicaps of centralization could be forgiven if there were a compensating improvement of standards. But that improvement cannot be found, so we have sacrificed harmony with no balancing gain.

CHAPTER VII

CONCLUSIONS

I. *For the Political Scientist*

Our two hypotheses which, like most hypotheses in social science, have been only partially proved are:

First, that unless some professional spirit be introduced, there may be just as much politics within civil service as outside of it.

Second, that state administration of local civil service has aroused so much political antagonism and caused so much political friction that standards were lowered rather than raised. We do not wish to imply that state administration would always have that result; we merely wish to assert that it has had that result in Massachusetts.

In the chapter on recruitment it was demonstrated that the lack of a modern examining technique and a number of restrictive legislative provisions were traceable in large part to the unpopularity of state control of municipal civil service. It was noted that the development of state wide eligible lists—one of the best features of a state administered personnel system—had been neglected.

The chapter dealing with veteran preference showed that Massachusetts had granted more preference than the federal government or most of the states. This fact seems to demonstrate the politically vulnerable nature of the Massachusetts personnel system partially, perhaps, a result of state supervision. Associations of employees have not, as in other jurisdictions, done much fighting against preference—an illustration of their unprofessional attitude.

In the chapter on promotions it was noted that large groups of organized employees who were lacking in professional spirit had exerted pressure on the Civil Service Commission to secure most of what they wanted in promotion—a demonstration of the first hypothesis.

The chapter on removal protection analyzed an unusual feature of Massachusetts personnel policy—judicial review of removal. It was observed that here, too, non-professional-minded employees had forced very cumbersome restrictions on the administrative process—again proving the dangers of internal politics.

The chapter on state-local relations demonstrated that none of the

advantages of state-wide interchange of personnel had been attained under, and that much friction had been caused by, state control of a municipal matter. The inference is that other states would do well to avoid such an experiment.

II. *For the Citizens of Massachusetts*

So much for the political science side of the picture. The writer cannot refrain from adding a few suggestions for improving the present methods in Massachusetts.

1. Recruitment would be greatly improved by the use of intelligence tests and by development of state-wide eligible lists.

2. Little can be done about the veteran problem except to fight off entrance without examinations, which is in danger of being extended to Spanish War, then World War veterans. Higher standards on examinations for inspectional and social service posts are desirable.

3. The promotion system would be improved by less emphasis on seniority, lower age maximums for promotional examinations, and, above all, the introduction of some form of service ratings.

4. Judicial review of removals should be changed to review by an administrative board of some sort. Compulsory retirement ages should be established for police and firemen.

5. The Commission should make a greater effort to be friendly and tolerant in enforcing civil service rules in municipalities. It should try to be an effective personnel agency giving service to local governments, not a watchful duenna of employee rights.

6. The Commission should make definite efforts to establish close, friendly relationships with organizations of public employees. Training courses, welfare work, and frequent conferences might result in a more public-spirited personnel, and closer commission-employee cooperation would probably also facilitate the solution of problems of promotion, removal, and veteran preference.

APPENDIX A

COMMISSION OF INQUIRY ON PUBLIC SERVICE PERSONNEL

Since the manuscript for this book was sent to the printers, American personnel literature has been greatly enriched by the publications of the Commission of Inquiry on Public Service Personnel. Since it is impossible to fit the numerous suggestions of these writings into our manuscript at this date and since the omission of a reference to them would constitute a serious flaw in a study of this subject, this brief appendix has been added.

We do not need to devote much space to the report of the Commission entitled "Better Government Personnel." The effort to make it a brochure of effective propaganda for civil service has greatly limited its scientific usefulness. Propaganda efforts for civil service serve a laudable function in some cases, but the question in Massachusetts is not whether to have or not to have civil service. Few thinking citizens would advocate the abolition of the system, though many may wish to remedy certain difficulties in its present operation. Since the very difficulties which most urgently concern us are glossed over in the report,[1] it has little value for us.

One specific recommendation in "Better Government Personnel" can be challenged on the basis of our study. It is the recommendation for "extension of the merit system under the supervision of the United States Civil Service Commission, wherever practicable, to the personnel of state and local government agencies receiving or expending federal funds. . . ." If our second hypothesis has been adequately proved, if state control of municipal civil service has increased rather than solved difficulties, suggestions for federal control of state civil service must be viewed with some apprehension. Both the political unpopularity and the administrative friction which are noticeable in Massachusetts, would be augmented in the case of federal control. The increase of federal power may be desirable, even necessary, in some connections but it should not be attempted in the realm of state and city personnel administration.[2]

[1] See the writer's review in *International Journal of Ethics*, July, 1935, p. 484.

[2] See the review of "Better Government Personnel" in *State Government* for May, 1935.

Much better meat for our readers is to be found in "Problems of the American Public Service," a volume of monographs published by the Commission of Inquiry. Professor Friedrich's essay on "Responsible Government Service Under the American Constitution" is an unusually lucid treatment of the dual problem of improving the public service while preserving government responsibility to the electorate. His remarks on "responsibility and federalism" are especially commended to the reader. By a somewhat different approach he arrives at a conclusion similar to our second principle. He feels that preservation of local institutions tends to maintain responsibility in government; while we have noted that a serious trespassing on local institutions has resulted in less effective government and thus in a loss to the general population.

Mr. John F. Miller has written an able study of veteran preference laws in the United States which can be genuinely commended to the reader. Mr. Miller agrees with the present writer that the important problem is to readjust veterans to a normal economic life without lowering standards of public personnel, but in the writer's opinion his proposed system by which veterans may be brought into the public service in cases where credit can be given for military experience is of no particular value. Now that veterans are too old for entry into police and fire forces, it is difficult to find jobs for which military experience would be valuable.

Professor Graham makes a number of useful suggestions in his comparison of personnel practices of business and of government. The reader's attention is called especially to his recommendations (1) that civil service commission staffs function as active personnel agencies, (2) that civil service commissions make an effort to discover cases of unsatisfactory employee conduct before the stage of formal removal proceedings is reached, (3) that service sampling and supervisor training be instituted, (4) that civil service staffs participate more systematically in promotions and (5) that more effort be made to recruit young men and women from schools and colleges for executive work.

While it has not been the intention of the writer to propose all the changes in Massachusetts civil service which might be desirable, a few specific suggestions have been made, and it is gratifying to notice that Professor Graham's first, fourth, and fifth suggestions accord with conclusions already included in this book. Moreover the writer heartily concurs in the second and third recommendations.

One practical factor must be emphasized. The Massachusetts Civil

Service Commission needs more adequate appropriations before it can undertake these general service functions, but in the long run extra expenditure on the personnel agency would doubtless repay the Commonwealth in terms of an increasingly efficient government service.

APPENDIX B

PERCENTAGE OF APPOINTMENTS RECEIVED BY VETERANS[1]

Classification	*Total Appointments*	*Veterans Appointed*	*Per cent Veterans*	*Total Appointments*	*Veterans Appointed*	*Per cent Veterans*
	1925			*1926*		
Executive	93	26	27.95	92	34	36.9
Clerical	713	58	8.1	753	41	5.4
Social Workers	45	7	15.5	48	7	14.6
Inspectional	100	66	66.	86	44	51.2
Instructional	216	7	3.2	246	6	2.4
Police	368	205	52.9	728	409	56.2
Fire	323	234	72.4	248	178	71.2
Custodial	302	158	52.3	65	29	44.6
Technical-Prof.	466	105	22.5	536	148	27.6
	1927			*1928*		
Executive	86	23	26.7	126	29	23.
Clerical	680	23	3.4	740	54	7.3
Social Workers	37	9	24.3	41	9	21.95
Inspectional	62	36	58.	79	5	6.3
Instructional	197	5	2.5	211	5	2.3
Police	446	181	40.6	384	174	48.3
Fire	272	137	46.1	303	197	65.
Custodial	262	150	57.25	277	139	50.6
Technical-Prof.	388	91	23.2	449	110	24.5
	1929			*1930*		
Executive	91	25	27.5	108	34	31.5
Clerical	809	45	5.6	966	47	4.9
Social Workers	48	18	37.5	54	9	16.7
Inspectional	100	49	49.	95	50	43.2
Instructional	122	3	2.45	128	7	5.5
Police	511	141	27.5	314	88	24.8
Fire	368	246	66.8	321	122	38.
Custodial	297	137	46.1	262	137	52.3
Technical-Prof.	449	137	30.55	553	99	17.9
	1931			*1932*		
Executive	109	41	37.6	85	25	29.4
Clerical	937	64	6.8	866	88	10.2
Social Workers	151	26	17.2	139	31	25.2
Inspectional	68	38	55.8	61	33	54.1
Instructional	282	15	5.3	225	7	3.1
Police	230	50	21.7	204	38	18.6
Fire	214	84	39.3	182	45	24.7
Custodial	209	103	49.2	216	131	60.6
Technical-Prof.	743	102	13.7	382	92	24.1

[1] Data compiled by the writer from annual reports of the Massachusetts Civil Service Commission.

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